



# Department for Communities and Local Government

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Our Ref: APP/U4230/A/13/2209607  
Your Ref: LT/KJ.235261.3

26 March 2015

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY PEEL INVESTMENT (NORTH) LTD AND TAYLOR WIMPEY UK LTD  
LAND TO THE NORTH AND SOUTH OF WORSLEY ROAD AND LAND AT AVIARY  
FIELD, BROADOAK, SALFORD, GREATER MANCHESTER, M28 2WG  
APPLICATION REF: 13/63157/OUTEIA**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr M Middleton BA (Econ) DipTP Dip Mgmt MRTPI, who held a public local inquiry between 10 and 20 June and on 1 July 2014 into your clients' appeal against the decision of Salford City Council ("the Council") to refuse to grant outline planning permission for the construction of up to 600 dwellings, marina facilities and basin, Class A1 (retail) and Class A3 (café) uses, associated formal and informal recreation and green space provision, landscaping and drainage works, vehicular access, car parking, diversion and realignment of public rights of way (PRoWs W51, W71, and W163), the creation of new footpaths and connections to the adjoining footpath network and the creation of an ecological mitigation area at Aviary Field, including the formation of a pond and the creation of a recreation area at Aviary Field in accordance with application ref: 13/63157/OUTEIA, dated 9 April 2013.
2. The appeal was recovered for the Secretary of State's determination on 30 December 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because it involves a proposal for residential development of over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be dismissed, and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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## **Procedural matters**

4. The Secretary of State has taken account of the Inspector's remarks at IR4 and, like the Inspector, he has determined this appeal in the context of the revised drawings and documents, using the most up-to-date versions where revisions have been submitted (IR4). The Secretary of State is satisfied that no party has been prejudiced by this approach.
5. In reaching his decision, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (IR42). Like the Inspector (IR42), the Secretary of State is content that the totality of the information provided complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the appeal proposals.

## **Matters arising after the close of the inquiry**

6. The Secretary of State is in receipt of representations submitted following the close of the inquiry or too late to be considered by the Inspector from Mrs Christine Hunt (1 July 2014), Shoosmiths for the appellants (14 August 2014) and Manchester City Council (21 August 2014). The Secretary of State has carefully considered these representations and he is satisfied that they do not raise matters which require him to refer back to parties prior to his determination of this case. Copies of the representations are not attached to this letter but will be provided on written request to either of the addresses shown at the foot of the first page of this letter.

## **Policy considerations**

7. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan (DP) unless material considerations indicate otherwise. In this case, the development plan consists of the saved policies of the City of Salford Unitary Development Plan (2006) ('SUDP'). The Secretary of State considers that the development plan policies of greatest relevance to this appeal are those set out by the Inspector at IR23-26.
8. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (The Framework – 2012) and the subsequent planning practice guidance (the Guidance - 2014), as well as the *Community Infrastructure Levy (CIL) Regulations 2010* as amended and the local documents identified by the Inspector at IR31-32. He has also had regard to the planning history which is summarised by the Inspector at IR33-34.
9. The Secretary of State has taken account of the Inspector's remarks about the Council's withdrawal of its Publication Core Strategy (CS) (IR28-29) and the development of Salford's emerging Local Plan (IR30). However, he does not consider that the emerging Local Plan is at a point where it can carry weight and nor does he consider that weight can be attributed to Salford's withdrawn CS.

## **Other Agreed Facts**

10. The Secretary of State has also taken account of the Inspector's remarks at IR43 – 67.

## **Main issues**

11. The Secretary of State agrees with the Inspector that the main issue is that set out at IR322 and that the matters set out by the Inspector at IR326 also need to be considered.

## **Development Plan**

12. For the reasons given by the Inspector at IR327-343, the Secretary of State agrees with his conclusion (IR344) that the appeal proposal would fragment and detract from the openness and continuity of the Worsley Greenway and would cause unacceptable harm to its character and value as an amenity and open recreation resource. He agrees too (IR344), that given the nature and circumstances of this proposal, great weight should be given to this harm, which results in a fundamental breach of SUDP Policy EN 2.
13. The Secretary of State has carefully considered the Inspector's reasoning at IR345-353 and, for the reasons set out in those paragraphs, he agrees that Policy EN 2 is not out of date and should attract full weight (IR354). He agrees with the Inspector (IR354) too that, because Policy EN 2 is not a relevant policy for the supply of housing, it is not appropriate to consider it in the context of paragraph 49 of the Framework. The Secretary of State notes that there is, however, no disagreement that the policies in the SUDP that determined the number and distribution of dwellings are out of date (IR354) and he sees no reason to take a different view. Paragraph 14 of the Framework indicates that, where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.
14. In terms of the site's ecological value, the Secretary of State agrees with the Inspector (IR356) that apart from a wide representation of bird species and the ecology at the Fishing Pond, the biodiversity of the two appeal sites to be developed is far from exceptional. He agrees with the Inspector's conclusion that the onsite benefits (including those at Aviary Field), resulting from the proposed mitigation measures, would more than outweigh the losses resulting from the development (IR356).
15. For the reasons given by the Inspector at IR357, the Secretary of State agrees, however, that the proposal would unnecessarily impair the movement of flora and fauna into Salford and is consequently not supported by SUDP policy EN 9. He agrees too that although the proposal would increase and enhance footpaths in the area, their ambience would be that of housing estates rather than open land (IR358). The Secretary of State agrees with the Inspector's conclusion that the proposal would not therefore protect and enhance the existing and potential open land recreational use of the area, and that it would not protect and improve the amenity of the area, and that the scheme is therefore contrary to SUDP Policy R4.

## **Sustainable development**

16. The Secretary of State has very carefully considered the views of the parties (IR149-155 and IR210-254), and the Inspector's reasoning at IR359-402, as to whether the proposal is sustainable development. He has considered the Inspector's remark at IR323 that the courts have ruled that the presumption in favour of sustainable

development in paragraph 14 of the Framework should only be engaged if the development is found to be sustainable development and his remark at IR359 that, the second part of the second section of Framework paragraph 14 is only engaged if the proposal can be judged to be sustainable development. The Secretary of State observes, however, that a two-stage approach was rejected by Patterson J in *Dartford BC –v- Secretary of State for Communities and Local Government* [2014] EWHC 3058 (Admin). Turning to IR359, the Secretary of State shares the Inspector's view that, as the proposal is not in accordance with the DP, the first part of paragraph 14 of the Framework is not engaged. However, he does not agree with the Inspector's subsequent remark that the second part of the second section of paragraph 14 of the Framework is only engaged if the proposal can be judged to be sustainable development (IR359). Bearing in mind his remarks at paragraph 13 above, the Secretary of State considers that it is appropriate to consider the appeal proposal under the fourth bullet point of paragraph 14 of the Framework and he has gone on to do so in his conclusions at paragraph 33 below.

17. The Secretary of State has gone on to carefully consider the Inspector's comments at IR361-401 as to the sustainability of the appeal scheme. For the reasons given by the Inspector at IR361 – 365, the Secretary of State agrees with his conclusion that the proposal would contribute positively to the economic role of sustainability (IR365). The Secretary of State agrees with the Inspector that much of the developed parts of the appeal sites would be over 1km from a Neighbourhood Equipped Area of Play (IR385) and that the scheme would offer little opportunity for children and others residing in the development to participate in informal sport (IR387). For the reasons given at IR366-388, he concurs with the Inspector's conclusion that, despite the proposal's contribution to overall and affordable housing in Salford, its harms to recreational and health issues are such that it would, overall, contribute negatively to the social role of sustainability (IR389). With regard to the environmental role of sustainability, the Secretary of State agrees with the Inspector's analysis at IR390 – 400, including his view that an already unacceptable situation in terms of air quality could be worsened by the appeal proposal (IR393), and he concurs with the Inspector's conclusion at IR400 that the proposal would contribute negatively to the environmental role of sustainability. In conclusion on this matter, the Secretary of State considers that, overall, the environmental and social harm would significantly and demonstrably outweigh the economic benefits so that the appeal proposal would not deliver sustainable development within the meaning of the Framework.

## **Other considerations**

### *Highways*

18. Turning to the Inspector's analysis of highways issues (IR404-408), the Secretary of State agrees with the Inspector, for the reasons he gives, that the proposed junction improvements add very limited weight in favour of the appeal proposal (IR408).

### *Shuttle Bus*

19. On the matter of the provision of a shuttle bus (IR409), the Secretary of State agrees with the Inspector that this would have wider benefits and should attract moderate weight in favour of the appeal proposal.

### *Education*

20. The Secretary of State has considered carefully the Inspector's comments on education (IR410-412). He agrees with the Inspector (IR410) that there is insufficient capacity within local primary education to accommodate the anticipated number of pupils that are likely to live within the development. For the reasons given by the Inspector at IR411, the Secretary of State agrees with him that, in the circumstances of this case, there is no justification to dismiss this appeal for educational reasons. He further agrees with the Inspector's reasoning in respect of the proposed footbridge and he too considers that this attracts minimal weight in favour of the appeal proposal (IR412).

### *Flood risk*

21. On the issue of flood risk, the Secretary of State has considered the Inspector's remarks (IR413-415) including the fact that a large part of Broadoak South is susceptible to flooding, as are areas downstream in Alder Forest (IR415). He notes that the appeal proposal would develop a scheme that would divert surplus water in times of flood to the Bridgewater Canal reducing flows in Sindsley Brook within the appeal site and downstream, thereby reducing the risk of flooding both on and off the site (IR415). He agrees with the Inspector (IR414) that the proposal therefore satisfies the purposes of the sequential exception tests in the Framework and that it is not objected to by the Council, the Environment Agency, or United Utilities on flooding grounds. He agrees with the Inspector, however, that there is no assessment as to the amount or risk of flooding downstream or the extent to which the appeal proposal would alleviate it and that a reduction in the capacity of Sindsley Brook downstream of the appeal site could easily be achieved by minor engineering works (IR415). The Secretary of State agrees that, for the reasons given by the Inspector, the downstream flooding benefits should only attract moderate weight in favour of the appeal proposal (IR415).

### *Marina*

22. With regard to the provision of a marina, the Secretary of State agrees with the Inspector's analysis at IR416-418, and he too concludes that in the absence of an enabling argument or viability assessment, there is no evidence linking the construction of a marina with housing development and that the benefits of the marina in these circumstances attract little weight in favour of the appeal proposal (IR418).

### *Open space*

23. For the reasons given by the Inspector at IR419, the Secretary of State agrees with the Inspector's conclusion that, on balance, the local community would be worse and not better off as a consequence of the development in respect of open space. The Secretary of State also agrees with the Inspector's analysis in respect of Aviary Field and Bridgewater Field (IR419), and too concludes that these provisions will be of minor benefit to the local community and that they therefore attract minimal weight in favour of the appeal proposal (IR420).

### *Housing need and deliverability*

24. The Secretary of State has carefully considered the Inspector's analysis and conclusions on housing need and deliverability (IR421-439). He has taken account of

the Inspector's comments that the Council and the appellants agree: that there is an annual requirement of 1,600 dwellings per annum (dpa) in Salford, as recommended by the CS Inspector; that, having made allowances for persistent under delivery (20%) and the backlog of completions since 2011, there is a 5 year requirement of 12,604; and that, on this basis, there is a 2.43 years supply of available and deliverable sites (IR421, IR71 and IR243). For the reasons given by the Inspector (IR424 - 428), the Secretary of State concurs with his conclusion that the Council does not have an objective assessment of need (OAN) set out in a recently adopted and Framework compliant plan (IR428). The Secretary of State has had regard to the Inspector's remark at IR429 that he has doubts about the legitimacy of 1,600 dpa being used as the OAN for Salford and his remark at IR430 that there is also doubt about the market's appetite and potential to build and occupy 1,600 dpa on brownfield sites within the city.

25. The Secretary of State agrees with the Inspector's view that the Department for Communities and Local Government 2011 based household projections suggest a housing need significantly higher than that currently being met (IR431). He also agrees with the Inspector's view that even if 1,600 dwellings is considered to be above the OAN, a step change in housing delivery and its location is required if the inner city is no longer capable of meeting most of the need (IR431). The Secretary of State considers that the housing benefits offered by the scheme in the circumstances of this case do merit significant weight, however, he agrees with the Inspector (IR431) that the uncertainty surrounding Salford's OAN suggests that the weight given to Salford's failure to provide a five year supply on the terms discussed in the Statement of Common Ground, should not be paramount.
26. The Secretary of State has given careful consideration to the Inspector's remarks at IR432-434 about identifying additional land for housing and, in common with the Inspector (IR433 and IR434), he considers that the resolution of these matters is clearly for the DP process.
27. The Secretary of State notes the Inspector's comments that Salford is preparing a LP but its progress on housing is stalled because it is awaiting the outcome of work at a Greater Manchester level in relation to housing requirements and he agrees with the Inspector that, despite the Appellants' criticisms, this seems to be the most appropriate way forward (IR435). Given the Inspector's remarks about the overall scale of the problem and the limited contribution that the appeal proposal could make to its resolution (150 dwellings within the 5 year period, albeit that the scheme seeks consent for up to 600 dwellings), the Secretary of State agrees that there is a strong case for awaiting the outcome of the strategic review through the DP process (IR436).
28. Like the Inspector, the Secretary of State recognises that there is a clear need for affordable housing in Salford, and a desire for aspirational housing (IR437) and he has taken account of the Inspector's view that it may be that the only way to achieve any additional housing in the short term would be by some development on greenfield land and in particular within the Greenway (IR437). He agrees with the Inspector that Policy EN 2 does not appear to preclude development in any circumstances, only that which would fragment or detract from the openness and continuity of the Greenway or would cause unacceptable harm to its other attributes (IR 437). He has also taken account of the Inspector's remark (IR438) that the Council does not oppose a small amount of development within the appeal sites and that such development, if appropriately located and screened, could actually improve the ambience of the remaining green

corridor. The Secretary of State agrees with the Inspector that if such a proposal was found to be acceptable and approved at an early date then it could still make a similar contribution to the five year supply as would the appeal scheme but that such a scheme would need to be fundamentally different to the appeal proposal, which offends the key components of Policy EN 2 so extensively (IR438). The Secretary of State agrees with the Inspector's conclusion (IR439) that the appeal proposal's complete obliteration of a section of the Greenway and its consequent fragmentation and loss of continuity is a high price to pay for making a very small contribution towards meeting the housing shortfall.

### **Conditions and Obligation**

29. The Secretary of State has considered the proposed conditions set out in the Schedule of Agreed Conditions (pages 88-96 of the IR) and the Inspector's comments on them at IR316-318. He is satisfied that the conditions recommended by the Inspector are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that these conditions overcome his reasons for refusing the appeal.
30. The Secretary of State has also had regard to the submitted Unilateral Undertaking dated 18 June 2014, the Inspector's assessment of this at IR319-320, national policy set out at paragraphs 203-205 of the Framework, the relevant planning guidance and the CIL Regulations 2010 as amended. The Secretary of State agrees with the Inspector (IR320) that the covenants and obligations within the Undertaking comply with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework. However, he does not consider that the Undertaking overcomes his reasons for refusing the appeal.

### **Planning balance and overall conclusion**

31. Having carefully considered the Inspector's comments on the planning balance and overall conclusions at IR440-442, the Secretary of State agrees with him that there is clearly a demonstrable shortfall in the five year land supply in Salford when measured against the housing requirements supported by the CS Inspector and that the Framework urges every effort to boost the supply of housing (IR440). He has attributed significant weight to the housing benefits offered by the scheme (paragraph 25 above) and, like the Inspector (IR440), he recognises that, in many contexts, this would be the determining factor. Furthermore, he agrees with the Inspector (IR440) that the appeal proposal would deliver affordable housing to a limited extent, it would improve public transport in the area through the shuttle bus, and it would contribute to a reduction in the risk of flooding elsewhere. He gives moderate weight to each of these considerations in favour of the appeal proposal. The Secretary of State has also recognised other positive benefits in relation to highways (paragraph 18 above), the footbridge (paragraph 20 above), the marina (paragraph 22 above) and open space (paragraph 23 above) albeit he has given them less weight.
32. Despite the benefits identified above, the Secretary of State agrees with the Inspector's view (IR441) that the intensity of the development, together with its proposed layout, would unnecessarily fragment the Greenway and totally destroy its character and continuity. He concludes too, in agreement with the Inspector (IR441), that there would be fundamental harm to the Greenway's openness and to its value as an amenity, recreation resource and wildlife corridor. He has also concluded (at

paragraph 15 above), that the scheme would unnecessarily impair the movement of flora and fauna and that the scheme is contrary to SUDP Policy R4 in terms of recreation and amenity. He agrees with the Inspector (IR441) that the proposal would also impact upon local air quality and health and that it makes inappropriate provision for sports participation and informal play. The Secretary of State considers, in agreement with the Inspector, that these considerations, when taken together, attract substantial weight against the appeal proposal.

33. Overall, the Secretary of state concludes that the scheme does not comply with the development plan, most notably because of its very marked conflict with SUDP Policy EN 2. The Secretary of State also concludes that the adverse impacts of this proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. He concludes that there are no material considerations of sufficient weight to indicate the proposal should be determined other than in accordance with the development plan.

### **Formal Decision**

34. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your clients' appeal and refuses outline planning permission for the construction of up to 600 dwellings, marina facilities and basin, Class A1 (retail) and Class A3 (café) uses, associated formal and informal recreation and green space provision, landscaping and drainage works, vehicular access, car parking, diversion and realignment of public rights of way (PRoWs W51, W71, and W163), the creation of new footpaths and connections to the adjoining footpath network and the creation of an ecological mitigation area at Aviary Field, including the formation of a pond and the creation of a recreation area at Aviary Field at land to the north and south of Worsley Road and land at Aviary Field, Broadoak, Salford, Greater Manchester, in accordance with application ref: 13/63157/OUTEIA, dated 9 April 2013.

### **Right to challenge the decision**

35. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
36. A copy of this letter has been sent to the Council and to Residents Against Inappropriate Development. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

*Christine Symes*

**Christine Symes**

Authorised by Secretary of State to sign in that behalf



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# Report to the Secretary of State for Communities and Local Government

by M Middleton BA (Econ) DipTP Dip Mgmt MRTPI

an Inspector Appointed by the Secretary of State for Communities and Local Government

Date 17 October 2014

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**Town and Country Planning Act 1990**

**Salford City Council**

**Land to the north and south of Worsley Road and land at Aviary Field,  
Broadoak, Salford, Greater Manchester, M28 2WG**

**Appeal by**

**Peel Investment (North) Ltd and Taylor Wimpey UK Ltd**

Inquiry held between 10 and 20 June and on 1 July 2014

Accompanied site visit held on 20 June 2014

Land to the north and south of Worsley Road and land at Aviary Field, Broadoak, Salford, Greater Manchester, M28 2WG

File Ref: APP/U4230/A/13/2209607

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## INSPECTOR'S REPORT

### CONTENTS

Subject	Page
Abbreviations	2
Procedural matters	4
The site and surroundings	6
Planning Policy	8
Planning history	11
The proposal	11
Environmental Impact Assessment	12
Other agreed facts	13
The case for Peel Investments (north) Ltd and Taylor Wimpey UK Ltd	16
The case for Salford City Council	33
The case for Residents Against Inappropriate Development	47
Organisations that were represented at the Inquiry	52
Interested persons who appeared at the Inquiry	53
Written representations from interested persons	57
Conditions and Obligations	57
Conclusions	58
Recommendations	82
Appearances	83
Application Plans	84
Inquiry Documents List	85
Schedule of condition	88

Richborough Estates

## Abbreviations Used in this Report

BAP	Local Biodiversity Action Plan
BCCM	Bridgewater Canal Corridor Masterplan
CD	Core Document
CS	Salford Publication Core Strategy (2012)
D	Document
DCLG	Department of Communities and Local Government
DP	Development Plan
dpa	dwellings per annum
EIA	Environmental Impact Assessment
EiP	Examination in Public
ERS	Environmental Statement
ex/c	examination in chief
Framework	National Planning Policy Framework
GB	Green Belt
GM	Greater Manchester
GMEU	Greater Manchester Ecological Unit
GMS	Greater Manchester Strategy
GW	Green Wedge
HA	Highways Agency
i/q	inspector's questions
LNR	Local Nature Reserve
LP	Local Plan
LSM	Leigh-Salford-Manchester
LVIA	Landscape and Visual Impact Assessment
MCC	Manchester City Centre
NEAP	Neighbourhood Equipped Area of Play
NPPS	National Planning Practice Guidance
OAN	Objective Assessment of Need
pdl	previously developed land
PRoW	Public Right of Way
RPG13	Regional Planning Guidance for the North West (2003)
RS	North West Regional Strategy (2008)
r/ex	re-examination
SBI	Site of Biological Importance
SCC	Salford City Council
SSHLAA	Salford Strategic Housing Land Availability Assessment (2013)
SSHMA	Salford City Council Strategic Housing Market Assessment (2012)
SLCA	Salford Landscape Character Assessment (2007)
SWRF	Salford West Regeneration Framework (2008)
SoCG	Statement of Common Ground
SoS	Secretary of State
SPD	Supplementary Planning Document
SUDP	City of Salford Unitary Development Plan 2004-16
TA	Traffic Assessment
TfGM	Transport for Greater Manchester
WLL	Worsley Loop Line
x/ex	cross examination

## Witness Abbreviations

AB	Anne Broomhead
AC	Andrew Cheetham
AG	Ann Goodall
JB	James Broome
JC	Jillian Collinson
KG	Karen Garrido
MC	Michael Courcier
MD	Matt Doherty
MH	Mike Hibbert
MW	Michael Watts
NB	Neil Bagley
NG	Noel Gaskell
PC	Pete Coe
PR	Pauline Randall
SW	Simon Wood

Richborough Estates

**File Ref: APP/U4230/A/13/2209607**

**Land to the north and south of Worsley Road and land at Aviary Field, Broadoak, Salford, Greater Manchester, M28 2WG**

- The Appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The Appeal is made by Peel Investment (North) Ltd and Taylor Wimpey UK Ltd against the decision of Salford City Council.
- The Application Ref 13/63157/OUTEIA, dated 9 April 2013, was refused by notice dated 14 November 2013.
- The development proposed is the construction of up to 600 dwellings, marina facilities and basin, Class A1 (retail) and Class A3 (café) uses, associated formal and informal recreation and green space provision, landscaping and drainage works, vehicular access, car parking, diversion and realignment of public rights of way (PRoWs W51, W71, and W163), the creation of new footpaths and connections to the adjoining footpath network and the creation of an ecological mitigation area at Aviary Field, including the formation of a pond.

**Summary of Recommendation: the appeal be dismissed**

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**Procedural Matters**

1. The proposal is primarily a residential development, with up to 600 dwellings. However, as well as the necessary infrastructure required to support a development of this size, including a retail unit, it includes a 130 berth marina adjacent to the Bridgewater Canal, a chandlery and a café. The appeals were recovered by the Secretary of State (SoS) following a direction, made under section (S) 79 and Paragraph (Para) 3 of Schedule 6 of the Town and Country Planning Act 1990, on 30 December 2013. The appeal has been recovered for determination by the SoS, as it raises policy issues relating to residential development of over 150 units on sites of more than 5 hectares. The proposal would significantly impact on the Government's objective to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities.
2. The application was submitted in outline with all detailed matters, except the means of access, reserved for subsequent approval. The boundaries of the three sites that constitute the application area are shown on plan A. Plans<sup>1</sup> accompanying the application show three new junctions with Worsley Road, one to its north and two to the south. These indicate the detailed configuration of the junctions, together with their appropriate visibility splays. Salford City Council (SCC), acting as Highway Authority, does not oppose these aspects of the proposal and in this context the junctions were not discussed further at the Inquiry.
3. Notwithstanding the outline nature of the application, additional plans<sup>2</sup> that indicate proposed tree removal, the location of greenspace, landscape and ecological improvements, as well as the proposed development areas, notional vehicular circulation routes and proposed building heights also accompanied the application. Plans showing existing site features and technical constraints were

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<sup>1</sup> Plans J, K and L

<sup>2</sup> Plans D-I

- also submitted<sup>3</sup>. A design and access statement and thirteen other informative documents also accompanied the application [Core Documents (CDs) 01 b-o].
4. Whilst SCC was considering the application, the application boundary and site description were amended to include land at Aviary Field that would be used as an ecological area and as playing fields. On 17 June 2013 the parties agreed that the application should be determined on the basis of the revised boundary and description. A revised Design and Access Statement and a Principles and Parameters Document, together with thirty two other documents [CDs 02 a-z], were also submitted and consulted upon before SCC determined the application. The Appellants are content that any planning permission should be conditioned to ensure that the resultant development adheres to the principles outlined in the documents and shown on the plans. I have considered the appeal in the context of all of these drawings and documents, using the most up-to-date versions where revisions have been submitted
5. Urban Vision<sup>4</sup> reported on the amended application to SCC's Planning and Transport Regulatory Panel on 31 October 2013 [CD 05] with a recommendation to approve subject to fifteen planning conditions and a legal agreement that secured financial contributions for educational and environmental improvements. The Panel disagreed with this recommendation and after considering a further report on 7 November 2013 [CD 06] resolved to refuse planning permission for the following reasons: -
1. *"The proposal would be contrary to the provision of saved policy EN2 of the Salford Unitary Development Plan in that the development would fragment the openness and continuity of the Greenway.*
  2. *The development is of a scale and nature that would prejudice the outcomes of the current Local Plan process by predetermining decisions about the scale, location and phasing of development, contrary to Annex 1 of the NPPF Para 216 and the Planning System: General Principles"*<sup>5</sup>
6. SCC's case was led by Urban Vision. However, prior to the Panel's consideration of the application, a forum composed of a cross section of local organisations and representing the community at large was established to oppose the proposal. Residents Against Inappropriate Development (RAID) was granted Rule 6 status and appeared at the Inquiry with six witnesses presenting an independent case to that of the City Council. Four Local Councillors were involved in the presentation of RAID's case and four others, from various parts of the City, as well as the local MP, attended to speak against the proposal. In addition to RAID and the politicians, five other local organisations appeared as independent third parties in opposition to the proposal as well as fourteen independent persons. The Inquiry sessions were all very well attended, with over one hundred persons present on the first morning and more than fifty on numerous other occasions, including an evening session.

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<sup>3</sup> Plans B-C

<sup>4</sup> Urban Vision is a planning consultancy partly funded by SCC. One of its tasks is to manage the City Council's Development Control function

<sup>5</sup> Minutes of the Planning and Transportation Regulatory Panel, 7 November 2013, [CD 07]

7. As well as statutory consultees, a very large number of Salford residents and organisations responded to the consultation about the planning application and around fifty individuals sent in further representations in response to the notices about the appeal. The overwhelming majority are opposed to the proposal<sup>6</sup>.
8. On 2 May 2014 Urban Vision wrote to the Planning Inspectorate informing it that SCC had decided to withdraw reason for refusal two and would not be offering any evidence on this matter to the public Inquiry. This reason was not raised at the Inquiry.
9. As well as on an accompanied site visit on 20 June 2014, I visited the entire appeal site and its locality unaccompanied on 9 June. I also made other visits to parts of the overall site and the surrounding area on various occasions whilst the Inquiry was sitting. On 21 July I visited Cambourne in Cambridgeshire, which is a new village community referred to by the Appellants. It contains landscaped footpath routes through the built development, some of which are not dissimilar in concept to those which the Appellants envisage for Broadoak.

## **The Site and Surroundings**

10. The application relates to three separated sites situated to the east and north of Worsley village, historically associated with the Duke of Bridgewater and his local mining interests but now a suburb on the western edge of the City of Salford. Residential development is proposed on two of the sites, which are separated by Worsley Road (A572). Land to the north of Worsley Road extends to approximately 5 hectares (ha) and is known as Broadoak North, whilst land to the south of Worsley Road occupies an area of 27.2 ha and is known as Broadoak South. The third site, known as Aviary Field, is located some distance from the other two appeal sites, to the north of Worsley Village and adjacent to the M60 motorway. This land affects an area of about 1.45 ha and would accommodate playing fields and an ecological area [Plan G].

### *Broadoak South*

11. This southern site is roughly rectangular in shape and consists of semi-improved pasture and a small area of mixed woodland. Sindsley Brook (which flows north-east to south-west across the site) is bounded by marshy grassland (listed as a local Biodiversity Action Plan (BAP) habitat). There is an angling pond contained within high hedges, close to the southern boundary (also listed as a BAP habitat).
12. A number of public footpaths run through the site connecting Dukes Drive Country Park, immediately to the south of the appeal site, with the Worsley Loop Line (WLL) (the alignment of a former railway that is now a footpath and a part of the national cycle network) to the east and Worsley Road to the north. The Bridgewater Canal abuts the south-western part of the site and a public footpath to Worsley Road skirts the western edge from the site's south-western corner, adjacent to the canal. A further public footpath crosses the site from this to the WLL [Plan C].

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<sup>6</sup> See the material accompanying the Council's questionnaire and Document (D) 12

13. The site is bounded to the north by Worsley Road, with Bridgewater School and Broadoak North beyond and to the north-east by residential development, parts of which are screened by trees within the site. To the east is the course of the former railway (WLL), which here is on a high embankment. There is mixed woodland within the appeal site and adjacent to the north-western boundary, with the rears of residential properties next to parts of the western edge of the site. Further south along this boundary the site abuts the Bridgewater Canal [Plan C].

#### *Broadoak North*

14. The northern site is roughly triangular in shape and comprises semi-improved pasture, a playing field used by Bridgewater School, which is located immediately to the west, a small area of broadleaved woodland, rough grassland and a marshy pond (which is also listed as a BAP habitat). A public footpath crosses the northern edge of the site connecting the south western part of Worsley Woods with the WLL. A high voltage power line also crosses the northern edge of the site, a part of which is adjacent to the playing field
15. The site is bounded to the north-west by a hedgerow, beyond which are Worsley Woods; to the north-east by the route of the WLL, which is in a deep cutting, and to the south by Worsley Road, which is fronted by mature trees [Plan C].

#### *Aviary Field*

16. Aviary Field is pasture land partly located within Worsley Woods Local Nature Reserve (LNR) and Worsley Woods Site of Biological Importance (SBI). The appeal site occupies its northern and eastern parts. Only the northern part of the field, which is identified for compensation, is located within the Worsley Woods LNR<sup>7</sup>. The site consists of an area of water-logged grazing land surrounded by adjacent woodland areas, including wet woodland. There is a public footpath around the eastern and southern edges of Aviary Field but no public access onto it at the present time [CD 01n].

#### *Surroundings*

17. The appeal sites are located within the urban part of Salford, although Aviary Field, being largely surrounded by woodland, portrays a rural aspect, despite the adjacent motorway. Worsley Village is located immediately to the west of the Broadoak sites and Hazelhurst is situated to their east. Across the Bridgewater Canal is a residential area known as Alder Forest, to the south of which is Westwood Park. Further to the south and beyond Dukes Drive Country Park lies Monton. All of these are suburbs of Salford, largely developed at various periods during the last century. Beyond the WLL, adjacent to the southern part of Broadoak South and to the south of Hazlehurst, is a large golf course. Its visibility from this appeal site is obscured by the WLL's high embankment<sup>8</sup>.
18. The appeal sites are located within the Worsley Greenway, which is an area of open land extending from the golf course and country park to the east and south

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<sup>7</sup> See Maps in Appendix (App) 2 to App 8.1 of the Environmental Statement

<sup>8</sup> App 1 to the Statement of Common Ground (SoCG)



of Broadoak South to more extensive open countryside to the west of the M60, which is within the Greater Manchester Green Belt (GB)<sup>9</sup>.

19. The Statement of Common Ground (SoCG) at App 1 illustrates the location of the appeal sites in relation to the local highway network and public transport facilities. Worsley Road (A572) connects with Junction 13 of the M60, located approximately 0.9 kilometre (km) to the west and with the East Lancashire Road (A580), about 2 kms to the east.
20. Local shopping facilities are limited in Worsley, although there is a public library and a number of restaurants and public houses, as well as estate agents. These facilities are located at least 0.5 km to the east of the proposed western vehicular access into Broadoak South. At Hazelhurst, nearly 1 km to the east of the vehicular access into Broadoak North, there is a small cooperative store but other convenience shops and services are limited within the residential areas close to the appeal sites. More extensive local shopping facilities are to be found in Monton, nearly a 1km walk from the southern edge of Broadoak South via Dukes Drive Country Park or along the WLL. This centre is about 3 km from the site at Worsley Road by road or illuminated footpath. The larger centre of Swinton is only marginally further to the east of this point.
21. Major employment opportunities are to be found in Manchester City Centre (MCC) and at Media City, each about 7 km to the south-east and at Trafford Park a slightly shorter distance to the south, as well as at locations close to the M60. Extensive leisure and comparison shopping facilities are also to be found in MCC as well as at the Trafford Centre, some 4 km to the south via the M60.
22. Appendix 2 to the SoCG illustrates the location of the appeal sites in relation to existing facilities in the surrounding area.

## **Planning Policy**

### *DP Policies*

23. The statutory DP comprises the 'saved' policies of the SUDP 2006 [CD09]. The site forms part of the Worsley Greenway (Policy EN 2) and the Worsley Woods and Greenway Key Recreation Area (Policy R 4). It also lies within a Wildlife Corridor Key Area of Search (Policy EN 9).
24. Policy EN 2 seeks to prevent development in the Greenway where it would fragment or detract from its openness and continuity, or would cause unacceptable harm to its character or its value as an amenity, wildlife, agricultural or open recreation resource. The supporting text at Para 12.7 points out that the Worsley Greenway is a strategically important Green Wedge (GW) covering some 195 hectares and that it is of great value to the city and local area. It also notes that it provides relief within an urban area and that the protection and enhancement of the Greenway in its entirety, is of great strategic and local importance.
25. Policy R 4 sets out seven objectives which proposals for development within key recreation areas should be consistent with. The supporting text points out

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<sup>9</sup> City of Salford Unitary DP (SUDP), Proposals Map [D C2]

that the Worsley Greenway has great potential to help meet the demand for recreational uses, in a sustainable way, by providing formal and informal recreational opportunities close to where a large number of residents live.

26. Policy EN 9 seeks to prevent the development of any land that functions as a wildlife corridor or provides an important link or stepping stone between habitats.
27. The Appellants and Council agree that the following SUDP policies are also relevant to the determination of the appeal:

- ST 1 – Sustainable Urban Neighbourhoods
- ST 4 – Key Tourism Areas
- ST 5 – Transport Networks
- ST 9 – Retail, Leisure, Social and Community Provision
- ST 10 – Recreation Provision
- ST 12 – Development Density
- ST 13 – Natural Environmental Assets
- ST 14 – Global Environment
- ST 15 – Historic Environment
- DES 1 – Respecting Context
- DES 2 – Circulation and Movement
- DES 3 – Design of Public Space
- DES 4 – Relationship of Development to Public Space
- DES 6 – Waterside Development
- DES 7 – Amenity of Users and Neighbours
- DES 9 – Landscaping
- DES 10 – Design and Crime
- H 1 – Provision of New Housing Development
- H 4 – Affordable Housing
- H 8 – Open Space Associated with New Housing Development
- A 2 – Cyclists, Pedestrians and the Disabled
- A 8 – Impact of Development on the Highway Network
- A 10 – Provision of Car, Cycle and Motorcycle Parking in New Developments
- A 15 – Safeguarding Potential Transport Route
- EN 2 – Worsley Greenway
- EN 8 – Nature Conservation Sites of Local Importance
- EN 9 – Wildlife Corridors
- EN 12 – Important Landscape Features
- EN 13 – Protected Trees
- EN 17 – Pollution Control
- EN1 8 – Protection of Water Resources
- EN 19 – Flood Risk and Surface Water
- EN 22 – Resource Conservation
- EN 23 – Environmental Improvement Corridors
- R 4 – Key Recreation Area
- R 5 – Countryside Access Network
- R 7 – Recreational Use of Waterways
- DEV 5 – Planning Conditions and Obligations
- CH 2 – Development Affecting the Setting of a Listed Building
- CH 5 – Archaeology and Ancient Monuments
- CH 8 – Local List of Buildings, Structures and Features of Architectural, Archaeological or Historic Interest).

Copies of these policies are attached as CD 09. They are discussed in the proofs of evidence of Michael Watts (MW) at S 4 and Simon Wood (SW) S 5.

### *Salford Core Strategy*

28. SCC submitted its Publication Core Strategy (CS) [CD 10i] to the SoS in May 2012. This included a proposal to deliver 1,300 dwellings per annum (dpa) over the plan period. The Examination in Public (EiP) into the CS commenced in September 2012 but was suspended by the appointed Inspector who considered the submission document to be unsound [CD 10d]. The Inspector's main concern was that the amount of housing and employment land for which the CS made provision was insufficient to meet the objectively assessed needs of the City in accordance with the Framework.
29. SCC's Officers wrote to the Inspector on 31st October 2012 confirming that, subject to member approval, SCC intended to withdraw the CS and proceed with the production of a Local Plan (LP) [CD 10e]. Members accepted the Inspector's conclusion that the plan was unsound and recognised that the scale of changes necessary to make it sound, including identifying substantial amounts of additional land to meet the housing and employment needs of the city, require a significant change to the overall spatial strategy set out, including the release of significant areas of greenfield land and most likely some GB land in Salford West. SCC resolved to withdraw the CS on 21st November 2012 [CD 10f] and simultaneously informed the Inspector of its decision [CD 10g].

### *Local Plan*

30. SCC is currently preparing a LP. The initial stage of consultation was undertaken between February and April 2013. Stakeholders were invited to nominate sites, which they considered should be allocated for development or land which should be given some form of protective designation. SCC set out its initial assessment of the sites that were suggested by stakeholders and a further period of consultation on these sites was held between 10<sup>th</sup> January and 21st March 2014. The overall results of this are currently being assessed. In accordance with the Duty to Cooperate SCC is liaising with other GM authorities under the umbrella of the Greater Manchester Spatial Framework, which will provide strategic input into the LP. Submission is anticipated in 2017 [Matt Doherty (MD) cross examination (x/ex) & Inspector's questions (i/q)].

### *Other Policy*

31. The City Council has adopted a range of other local policy documents in Supplementary Planning Documents, Planning Guidance and regeneration strategies which are relevant to the appeal. These are as follows:

Housing Planning Guidance (2006) [CD 17]  
Salford Flood Risk and Development Guidance (2008) [CD 18]  
Planning Obligations Supplementary Planning Document (SPD) (2008) [CD 19]  
Salford Greenspace Strategy SPD (2006) [CD 20]  
Nature and Conservation Biodiversity SPD (2006) [CD 21]  
Design and Crime SPD (2006) [CD 22]  
Trees and Development SPD (2006) [CD 23]  
Sustainable Design and Construction SPD (2008) [CD 24]  
Shaping Salford Design SPD (2008) [CD 25]

Education Contributions SPD (2013) [CD 26]  
Bridgewater Canal Corridor Masterplan (BCCM) (2011) [CD 27]  
Salford West Regeneration Framework (SWRF) (2008) [CD 28]

32. It is agreed that the following evidence base documents are also of relevance to this appeal:

Salford Strategic Housing Land Availability Assessment (SHLAA) (August 2013) [CD 29]  
Salford City Council Strategic Housing Market Assessment (SHMA) (2012) [CD 30]  
Landscape Character Assessment (2007) [CD 31]  
Better Together: Greater Manchester Strategy (2013) [CD 32]

## Planning History

33. An outline planning application for the *“Development of land for residential purposes and construction of new vehicular and pedestrian accesses at land south of Worsley Road, Worsley”*<sup>10</sup> was refused on 16 March 1983 for the following reasons:
- 1 *The proposed development would be contrary to the provisions of the Worsley and Boothstown LP wherein the land is intended to remain in agricultural use.*
  - 2 *The proposed development would result in the loss of valuable agricultural land (Grade 3a).*
  - 3 *The proposed development would result in the loss of a substantial area of open land which contributes greatly to the amenity and character of the area.*
34. A full planning application for the *“Erection of tennis and fitness centre together with associated car parking and landscaping and new vehicular access”*<sup>11</sup> on land south of the nursing home at Worsley Road was refused on 21 June 1996. The sole reason for refusal was that

*The proposed development would be contrary to Policies EN 18 and EN 25 of the Unitary DP, which seek to preserve the open character of the Worsley Greenway.*

## The Proposal

35. The proposal involves the provision of up to 600 dwellings on the Broadoak North and South sites, together with a marina and ancillary facilities. Within this overall ceiling, up to 90 dwellings could be provided on the northern site, with up to 540 units on the southern site. Whilst layout, scale, appearance and landscaping are reserved matters, the design and access statement (CD 1c) suggests that the dwellings will be predominantly two and three storey houses for families, with maximum ridge heights of eleven and thirteen metres respectively.
36. The Planning Statement (CD 1b) contains a proposed illustrative housing mix that suggests that more than one third of the dwellings would have four or five bedrooms. These would be comprised of a mix of town houses, semi-detached

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<sup>10</sup> Ref. E11870/Outline

<sup>11</sup> Ref. 95/34516/FUL

and detached houses. The exact composition would depend upon market forces over the lifetime of the development. The Appellants envisage the accommodation being geared to the 'aspirational market', although up to 20% of the proposed dwellings would be affordable housing. These would be split 40% intermediate housing and 60% social rented (CD 1c).

37. The phasing strategy for the proposed development estimates that construction would take place over ten years and assumes a build rate of approximately 75-80 dwellings each year following initial site preparation, with at least two developers on site. Development is expected to be completed by 2024 (CD 1b).
38. The envisaged breakdown of land uses within the two sites to be developed would include about 19 ha of housing and infrastructure and about 11ha of public realm/greenspace. The marina would occupy about 1.5 ha close to the southern boundary of Broadoak South. Within the open space on Broadoak South there would be a Neighbourhood Equipped Children's Play Area (NEAP) and a Community Orchard.
39. In addition to amenity green space at Broadoak North that would include a wetland area, there would be a formal recreation area that provides an extended replacement playing field for Bridgewater School. Wider public use outside of the school's requirements is envisaged for this site. Much of the proposed open space at Broadoak North is in the vicinity of the high voltage electricity pylons. An additional playing field and a wetland area would be provided at Aviary Field.
40. At Broadoak South the amenity green space is primarily focussed on the existing areas of trees and woodland but also includes a belt across the site, along the alignment of Sindsley Brook, where there would be ecological enhancements. A strip of undeveloped land adjacent to Public Right of Way (PRoW) W70, which skirts the site's western boundary, is also proposed.
41. The marina would provide 150 berths and be accompanied by a building housing marina facilities and a café and a car parking area. A footbridge would be constructed across the Bridgewater Canal, close to the marina. A 200 sq. m. convenience shop is to be located adjacent to a proposed 'village green' area within Broadoak South.

## **Environmental Impact Assessment**

42. The application was accompanied by an Environmental Statement (ES) made in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (the EIA Regulations), including technical appendices and a non-technical summary [CDs 01n & o]. It covers all the normal matters that a large scale housing development would be expected to give rise to including additional site specific matters and sets out mitigation proposals. At the inquiry I heard further evidence on the characteristics of the site, local transport and service infrastructure and the relationship of the development to the adjacent nature conservation areas and those within the sites. I am satisfied that the totality of the information provided represents the necessary environmental information for the purposes of Regulation 3 of the EIA Regulations and I have taken this information into account in making my recommendations.

## Other Agreed Facts

43. A SoCG was prepared by the Appellants and signed by their representative and by Urban Vision on behalf of SCC. At the Inquiry SCC's witnesses chose to depart from some of the information and interpretations contained in the SoCG. Despite a request by myself, at the Pre Inquiry Meeting, for the views of RAID to be incorporated into the SoCG, that did not happen. They do not agree with much of the supposedly agreed information that is open to interpretation.
44. According to the SoCG, the Appellants and SCC agree that the starting point for the determination of the appeal is the Development Plan (DP) and that:

*"If regard is to be had to the DP for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise."*

They also agreed the following:

45. That the National Planning Policy Framework (Framework) at Para 14 is pertinent to the appeal and that due weight should be afforded to relevant policies in the SUDP according to their degree of consistency with the Framework.
46. That SCC is unable to demonstrate a 5-year supply of deliverable housing land [CD 29]. There has been a record of persistent under delivery of housing within Salford when measured against the housing requirement of the North West Regional Strategy (RS) 2008 and so a 20% buffer on top of the maintenance of a 5-year supply of deliverable sites is therefore required in accordance with Para 47 of the Framework. SCC identifies a supply of 3.53 years (taking into account the need for a 20% buffer) and this can be considered to be a significant shortfall. If account is to be taken of any backlog then this should be addressed within the 5 year housing supply period and it would reduce the supply position identified by SCC.
47. That as a consequence of this significant shortfall in the 5 year supply of deliverable housing land the relevant housing policies of the DP should be considered to be out-of-date in accordance with the Framework at Para 49.
48. That weight should be afforded in the determination of this appeal to the contribution which the site could make to addressing the identified housing shortfall and meeting the Government's objective of securing a better balance between housing demand and supply.
49. That the SHMA [CD 30] identifies a net additional need for 1,019 affordable dwellings per annum, based on addressing the current backlog of need over a 5-year period. In accordance with Policy H 4 of the SUDP and Policies HOU 3 and HOU 4 of the adopted Housing Planning Guidance [CD 17], 20% of residential units on the site should be provided as affordable. The ability of the site to deliver this level of affordable housing is a material consideration in this appeal.
50. That there is a need for higher-quality/higher-value family housing within Salford and that growing the supply of such housing can attract and retain economically active households. The SWRF [CD 28] was prepared by SCC to guide the regeneration of Salford West. Its provisions, which consider that Salford West has an important role to play in increasing the supply of higher quality/higher value housing and providing a more balanced housing market

across the City, are a relevant material consideration in planning for Salford West and in this appeal.

51. That the provision of higher quality/higher value housing would help to diversify the type of housing that is available within the city, and GM. Allowing the appeal would help to ensure that land is available in locations that are attractive to the market, in line with the Greater Manchester Strategy (GMS) [CD 32] and in accordance with the SWRF and SUDP Policy H 1 (in terms of providing a balanced mix of dwellings). Significant weight should be afforded to the delivery of aspirational housing by the proposal.
52. That the site is situated in a sustainable and accessible location, which has the potential to encourage future residents to travel by sustainable modes of transport. The scheme is consistent with the objective of locating development where there is good access to public transport and non-car modes of transport as advocated by the Framework. In this context the development accords with SUDP Policies ST 1, A 2, A 10 & A 15 and it would be accessible and sustainable<sup>12</sup>.
53. That the outline application approach, including the establishing of clear development principles and parameters, will ensure that a high quality scheme can be delivered and that SCC will retain sufficient control over the design and form of the scheme to ensure that this is achieved. The development therefore could accord with SUDP Policies DES 1, DES 3, DES 4, DES 6, DES 7, DES 8, DES 9 and DES 10.
54. That the density of development proposed (up to 38 dwellings per hectare (dph)) is appropriate and satisfies all relevant policies. An appropriate mix of dwelling types and sizes can be delivered within the stated density range. The development could therefore accord with SUDP Policy ST 12.
55. That the Worsley Greenway (SUDP Policy EN 2) is an extensive tract of land that cannot therefore be considered to constitute Local Green Space. It is not thereby protected from development by the Framework at Para 14 and footnote 9.
56. That the site is located outside of the designated GB and constitutes greenfield land.
57. That the development would not result in unacceptable harm to the Greenway as an amenity or open recreational resource<sup>12</sup>. The proposed development will provide well in excess of the green space required by SUDP (Policies ST 10, H 8, R 5 & R 7) and the Planning Obligations SPD.
58. That subject to the mitigation measures set out in the submitted Ecological Assessment, the proposed development would not have an unacceptable impact on the Greenway in terms of its value as a wildlife corridor<sup>12</sup> or on protected species or cause unacceptable harm to the sites' value as a wild life resource. Appropriate mitigation measures can be secured by condition. The development could therefore accord with SUDP Policies ST 13, ST 14, EN 8 and EN 9.
59. That the development will result in the loss of 5.4 ha of the best and most versatile agricultural land. The loss of 20 hectares or more of agricultural land is

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<sup>12</sup> NB. At the Inquiry SCC pointed out that it did not agree with this statement.

- a recognised threshold whereby consultation with DEFRA is required. There would not therefore be unacceptable harm to the Greenway as an agricultural resource.
60. That the site is capable of being developed without giving rise to unacceptable impacts on the amenity of surrounding residential properties, important landscape features and protected trees. The development therefore accords with SUDP Polices EN 12 & EN 13.
61. That the development will not have a severe impact on either the local or the strategic highway network if the proposed mitigation measures, which are considered to be suitable and appropriate, are implemented. In such circumstances the proposed development would not result in a severe impact on the highway network. SUDP at Policy A 8 indicates that development should be resisted where it would have unacceptable impacts on the highway network. However, the Framework at Para 32 states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The parties have agreed the extent to which the development would impact on the highway network and the proposed mitigation measures provide an appropriate solution and adequate mitigation. The development therefore accords with SUDP Polices ST 5, DES 2, A 2, A 8, A 10 and A 15.
62. That subject to appropriate mitigation measures, the development will not give rise to any unacceptable impacts on air quality. These can be secured by condition. The development could therefore accord with SUDP Policy EN 17.
63. That the development will not give rise to any unacceptable impacts relating to noise and that the site is not located where the amenity of future residents may be affected by surrounding noise, subject to mitigation measures. These can be secured by condition. The development could therefore accord with SUDP Policy EN 17.
64. That the site does not present any insurmountable flood risk constraints, subject to appropriate mitigation measures being implemented, as set out in the submitted Flood Risk Assessment. The development could therefore accord with SUDP Policies EN 18 and EN 19.
65. That the provision of a Marina on the Bridgewater Canal will help to facilitate SCC's aspirations for Worsley to become a significant visitor destination, in line with the BCCM [CD 27]. The social benefits of the development must be afforded weight in the overall planning balance<sup>9</sup>. The development accords with SUDP Policies ST 4 & R 4.
66. That the development would not have a detrimental impact upon any historic and cultural assets that contribute to the character of the city, subject to the implementation of a programme of archaeological works. These can be secured by condition. The development could therefore accord with SUDP Policy ST 15.
67. That in accordance with SCC's Planning Obligations Supplementary Planning Document, the proposed financial contributions (to be secured by a planning obligation) will mitigate the impacts of the proposed development on education and green infrastructure provision within the area.



## The Case for Peel Investment (North) Ltd and Taylor Wimpey UK Ltd

68. The Appellants agree that the proposal does not accord with SUDP Policy EN 2 because it detracts from the openness of the Greenway and that as a result it is contrary to the DP [MW 9.9]. However, in their opinion this is a policy for the supply of housing land and by virtue of the absence of a five year supply of deliverable housing sites and the advice in Para 49 of the Framework, that policy cannot be considered to be up-to-date.
69. The proposal is sustainable development within the overall meaning of the Framework and the relevant DP policy is out-of-date. Consequently, as any adverse impacts of the development would not outweigh the benefits when assessed against the policies in the Framework as a whole, planning permission should be granted.

### *Housing land*

70. The issue of housing land shortage is central to this decision. The shortfall needs to be alleviated as a matter of urgency and that can only be achieved by granting planning permissions.
71. SCC agrees that the five year requirement is 12,604 dwellings net of clearance. This is arrived at by using the CS Inspector's recommended requirement of 1600 dpa net 2011-2028, which is the latest objectively assessed housing need. Persistent under delivery requires a 20% buffer to be applied and the backlog of completions have also been added into the requirement. The total supply is agreed at 6,121 dwellings, equating to a 2.43 year supply and a shortfall of 6,483 dwellings. At 30 dph this represents a release of 226 ha. At 40 dph it would require 162 ha [Michael Gourcier (MC) S4 and ex/c].
72. The RS set out a housing requirement for Salford amounting to an annual average rate of 1600 dwellings net. The strategy sought to direct a high proportion of the City Region's housing needs to Salford and Manchester and thereby reduce housing requirements in more peripheral locations such as Wigan, Bolton and Trafford. Although revoked by the SoS in 2013 the RS remains the only source of a reasonably up-to-date housing requirement for Salford, which has been adopted through the statutory planning system [MC 2.3].
73. SCC has no strategy to deal with the shortfall and its decision to await the outcome of work on the Greater Manchester Spatial Framework [MD x/ex] effectively means that it will be 2017 before the Salford LP is adopted. As a result SCC will not be proactively driving the delivery of housing in the interim.
74. There is insufficient suitable and available brownfield land to meet the objectively assessed need. SCC agrees that greenfield land, as well as GB will have to be released if the requirement is to be met [CD 10b App C]. Greenfield land, such as the appeal sites, outside of the GB should clearly take priority because of the very special circumstances test. In any event the National Planning Practice Guidance (NPPG) confirms that a housing land shortfall is not to be regarded as demonstrating very special circumstances on its own.
75. In response to the CS Inspector's letter of 17 July 2012 [CD 10a] SCC accepted that in order to provide a level of housing supply that would meet a requirement for 1600 dpa, greenfield land could potentially provide a maximum

of 1629 dwellings [CD 10b App C11]. That figure included 665 at the appeal sites, as well as additional dwellings on other land within the Greenway. It also confirmed that any further increase in supply would require the release of GB land. Therefore the release of the appeal sites for housing development now is essential [MW 9.28, 9.30, 10.14-10.16].

76. The sites' early development could produce 150 dwellings by 2018, with a further 75+ dpa thereafter. In his decision on the Burgess Farm appeal<sup>13</sup> [MW App 10], the SoS gave significant weight to the housing land consideration in respect of a development that contributed 175 units to the five year supply. At Para 47, the Framework requires Councils to boost the supply of land significantly by identifying specific deliverable sites. This can only be achieved by approving planning applications.
77. The development will provide higher quality/higher value housing and will diversify the type of housing available within the City and GM. It will ensure that land is available in locations that are attractive to the market in line with the Greater Manchester Strategy (GMS) (2013) [CD 32] and the SWRF [CD 28]. Salford West has an important role to play in increasing the overall supply of such housing and in providing a more balanced housing market across the City [SoCG 5.20].
78. The proposal would also deliver 60 affordable dwellings. Without planning permissions, no affordable homes would be built. The proposed affordable housing is in accordance with SUDP Policy H 4, as well as the adopted Housing Planning Guidance and in a situation where there is an identified need for 1019 affordable dpa [SHMA CD 30]. The CS Inspector recognised the considerable benefit an overall requirement of 1,600 dpa could bring to the provision of affordable and aspirational housing [MC 5.4].

#### *Unitary DP*

79. The SUDP development proposals in Policy ST 2 are based upon a housing requirement of 530 dpa net of clearance for the period until 2016. That was derived from Regional Planning Guidance for the North West (RPG13), which was issued in 2003. Policy ST 2 was superseded by RS Policy L4 and has not been saved [MC 2.4].
80. A conflict with Policy EN 2 is accepted because the proposal would detract from the Worsley Greenway's openness [MW 9.9].
81. However the SUDP was adopted in 2006 and prepared in the context of RPG 13 and Planning Policy Guidance Note 3. It was based on a housing requirement of 530 dpa net of clearance, which was based on natural increase. The acceptance of a priority for the use of previously developed land meant that at that time there was no need to release greenfield land to meet the housing requirement. The Greenway policy protection arose in that specific context. The subsequent RS had a requirement of at least 1,600 dpa. This was promoted by the City Council. Consequently the SUDP does not make proper provision for the current needs of Salford [MW 8.16-21].

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<sup>13</sup> Ref: App/U4230/A/11/2157433 Land at Burgess Farm, Hilton Lane, Worsley, Manchester.

82. Policy ST 2 Housing Requirement was not saved beyond 2009. As a result the SUDP is now totally silent, as per the Framework at Para 14, with regard to the amount of new housing that should be provided and out of date in accordance with the Framework at Para 49. Additionally it no longer meets the wider planning objectives of the Framework at Para 47 [MC 2.41 & 7.8, MW 4.18 & 8.4-8.42].
83. The release of greenfield land is thwarted by SUDP environmental policies, including Policy EN 2. However, SCC has recognised that accommodating 1,600 dpa net will require a significant change to the overall spatial strategy, including the release of significant areas of greenfield land in Salford West [CD 10e]. The Mayor's report [CD 10f] confirmed that
- a. the shortage of housing land could not be solved by the use of higher densities in central Salford [Para 2.2];
  - b. the amount of land available for residential development would need to be increased but could not be done by the expedient of PDL or the use of existing employment sites [Para 2.3];
  - c. increasing the supply of land for housing to the extent necessary to meet the Inspector's concerns would *"require the preparation of evidence identifying land suitable to deliver sustainable development and examining whether exceptional circumstances exist that would justify the release of land from the GB"* [Para 2.3].
84. When it abandoned its CS, SCC knew that a new balance must be struck between housing and environmental interests. This would fundamentally undermine SUDP Policy EN 2 and the weight that can be attributed to it. The substantial changes to the context of planning policy in Salford since the SUDP was adopted and the Worsley Greenway designated mean that the statutory principle should be outweighed
85. SCC did not retain the site specific Greenway policy in its draft CS. It did not even identify it as a strategic entity of any more strategic importance than any other green area. Nor did it designate it as a strategically important sub-regional major area of green infrastructure along with Chat Moss and the Irwell Valley. It is clear that the Greenway Policy was no longer considered to be applicable or relevant [MW 4.16 & 4.17].
86. CS Policy GI1 contemplated new development within the green infrastructure and envisaged that it would contribute to the expansion of the network. It did not treat openness as a valid green infrastructure function. Furthermore CS Policy DP1 would have allowed greenfield development if there were no previously developed land (pdl) sites available as is the case now. It cannot be suggested that it would have been used to preclude necessary development [CD 10i 8.4 & 19.3].
87. In conclusion, it is simply inconceivable that SCC should now seek to use UDP Policy EN 2 to refuse much needed housing development in the present circumstances, having regard to the Framework, CS and the present five year land position.

## Policy EN 2

88. Little weight should now be attached to this policy because:
- a. SUDP does not define what Green Wedge (GW) role or function the Greenway is intended to serve. There is no information that outlines the reasoning for the designation [MW 10.22];
  - b. It seeks to impose a high level of protection to a local landscape designation and amounts to an outright ban on housing development without any reference to or consideration of the benefits outweighing the harm as advocated in the Framework at Para 14 [MW 8.35-8.37. Also see Rothely decision at Paras 11 & 12<sup>14</sup> and Moulton decision at Para 20<sup>15</sup>];
  - c. It does not provide any criteria for assessing the suitability of the development as it affects landscape areas as advocated by the Framework at Para 113. Such policies should draw distinctions between international, national and locally designated sites and protection should be commensurate with their status. SCC's assertion that the distinctions between different hierarchies only applies to ecological matters is simply wrong. On any simple basis of interpretation the third sentence of the Framework at Para 113 must be read by reference to the second sentence, which refers to landscape areas [MW 8.35 & 8.53];
  - d. SCC also accepts that the Worsley Greenway is an extensive tract of land and cannot be considered to constitute a Local Green Space, which would be protected from development by the Framework at Para 14 and footnote 9 [SoCG 5.8].
89. EN 2 should be treated as relevant policy for the supply of housing. The Barwood<sup>16</sup>, Bloor<sup>17</sup> and Davis<sup>18</sup> cases confirm that this is a matter of planning judgement. However, at Para 47 in the Barwood case, Judge Ouseley says that *"the language of NPPF Para 49 cannot sensibly be given a very narrow meaning as this would mean that policies for the provision of housing, which were regarded as out of date, nonetheless would be given weight indirectly but effectively through the operation of their counterpart provisions in policies restrictive of where development should go."* At the end of Para 47 he contrasts generally applicable open countryside policies with policies designed to protect specific areas and says that the test should be whether they *"could sensibly exist*

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<sup>14</sup> Appeal ref: App/X2410/A/13/2196928, Land off Mountsorrel Lane, Rothley, Leicestershire [MW App 4]

<sup>15</sup> Appeal ref: App/A0665/A/13/2198931, Land off Barnside Way, Moulton, Cheshire [MW App 5]

<sup>16</sup> High Court of Justice Case No: CO/12394/2013, South Northamptonshire District Council v Secretary of State for Communities and Local Government and Barwood Land and Estates Ltd [D C11]

<sup>17</sup> High Court of Justice Case No: CO/2334/2013, Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [D C12]

<sup>18</sup> High Court of Justice Case No: CO/10359/2012, William Davis Ltd and Jelson Ltd v Secretary of State for Communities and Local Government and North West Leicestershire District Council [D C13]

*regardless of the distribution and location of housing or other development". If SCC's approach is taken, then the wider objectives of the Framework at Para 47 cannot be achieved [MW 8.40-8.50].*

90. As it is essential for this site to come forward, if the objectively assessed housing need is to be met, there can be no doubt that the GW protection policy cannot sensibly exist regardless of the distribution and location of housing in the City, particularly as it affects a significant proportion of the potentially developable housing. In such circumstances a proper planning judgement would treat the policy as a housing supply policy.
91. The circumstances in *Davies*, where the policy was found not to be a policy for the supply of housing, were of an entirely different nature. *"Although it was common ground that some greenfield land would have to be used, there were other sites in the Coalville area in which the additional housing could be provided. Indeed in the emerging Core Strategy the LPA had earmarked an alternative site for housing development outside the GW"* (Para 41). Likewise in *Bloor*, the Inspector had found that there was a five year supply of housing land and also that the Core Strategy GW policy was up to date (Paras 183 & 184).
92. In the present case, SUDP Policy EN 2 has a substantial and fundamental effect on the ability of Salford to meet the objectively assessed housing need. The policy is not limited to a small specific area of land; it covers an extensive area of land (195 ha). It affects a significant proportion of the potentially developable housing land within the City outside the GB. EN 2 will have to be reviewed as a part of the LP considerations if Salford's housing needs as currently assessed are to be met. EN 2 cannot therefore sensibly exist regardless of the distribution and location of housing development. In these circumstances the Greenway policy must be treated as a relevant policy for the supply of housing and is out of date [8.45 & 10].
93. *Barwood* at Para 49 makes it clear that even if the policy is not one for the supply of housing, the outcome would not have been different because the same material considerations would have indicated that the development should be permitted because of the expired plan and its out of date housing policies [MW 8.47].
94. In the circumstances of this case there can be no overriding planning objective that justifies the appeal sites being kept permanently open when Salford cannot meet its housing requirements without the release of greenfield land in Salford West. In such circumstances the use of greenfield land out with the GB, has to be maximised in accordance with established principles. In reality, given the above context, any overriding planning objectives which would require the appeal site to be kept open would have to be so important that GB, which has been designated having regard to the essential characteristics of openness and permanence, would need to be released in its place [MW 8.48 & 10].
95. It is therefore submitted that on any basis SUDP Policy EN 2 is out of date if treated as a policy for the supply of housing and in any event should be treated as being of little weight given the balance of harm and advantage. Either way, given the need for land to be released to meet the housing land supply shortfall, there are material considerations that outweigh any conflict with the DP. The

section 38(6) presumption should consequently not apply [MW 8.51, 8.54 & 10.36-10.40].

96. Whilst it is accepted that under the policy there is conflict with openness, on any approach limited weight falls to be attached to that conflict when a proper planning judgment is made [MW 9.11].
97. It is specifically agreed that the development will not result in unacceptable harm to the Greenway in terms of its value as a wildlife, agricultural, amenity or open recreational resource or indeed any of the other matters referred to in SUDP Para 12.7 [SoCG 5.12]<sup>12</sup>. It is not contended that the site affects the setting of Worsley or the Bridgewater Canal.
98. It is further agreed that the site is capable of being developed without giving rise to unacceptable impacts on important landscape features and protected trees and accords with SUDP EN 12 and EN 13 [SoCG 5.26]. SCC is satisfied that the clear development principles and parameters will ensure the delivery of a high quality scheme. Appropriate conditions would enable SCC to maintain sufficient control over the design and form of the scheme to ensure such is achieved [SoCG 5.27].

#### *Existing Landscape Considerations*

99. With the qualification that the principle of the development of the site was a matter for others, at the time of the application, the landscape officer who dealt with the proposal, thought that in landscape and ecological terms the proposal was acceptable [CD 04z].
100. The landscape value of the appeal sites in the context of the Worsley Greenway is discussed by Pauline Randall (PR) at S3. The Greenway is located within an urban area comprised of suburban residential areas that merge into one another, forming a single community and a single settlement within the GM conurbation. The designated area is an irregular finger of undeveloped land projecting into the urban area. It is made up of a series of physically separated areas with different landscape functions and character that are located within three different landscape character areas.
101. It is comprised of parcels of land with no inter-visibility between them and no unified landscape character or use. These include a golf course, a park, woodland, a secondary school, a nursing home, a hotel, major infrastructure and agriculture. Features such as the WLL visually separate these constituent parts. They are collectively of a suburban rather than a rural nature. Broadoak North and Broadoak South are largely bounded by urban development. The agricultural land is divorced from the home farms. Additionally, Aviary Field is of low agricultural value because of poor drainage. The motorway and the mast are visual detractors so that this site has no particular visual merit. The site also has no existing recreational value.
102. There is no overall unified landscape character or use, the appeal sites forming an unremarkable agricultural landscape that is viewed from the adjacent recreational trails but is not prominent. Broadoak South is of moderate to low scenic value and its recreational potential is limited, the public only having the right to walk along the statutory footpaths. Adjacent buildings and the pond area in the southern part of the site are visual distracters and the poor drainage and

land management, when combined with the poor condition of the bridges, has led to footpaths that are not easy to walk along. Broadoak North has no public access and there are only limited views from the adjacent areas.

*Impact of the proposal*

103. 41% of Broadoak North and 34% (including the marina) of Broadoak South will comprise green space, incorporating and improving the existing footpaths and wooded areas, as well as providing new linkages e.g. between Worsley Road and WLL [PR 4.8]. In all there would be 1.43 km of realigned and supplemented public footpaths [PR 4.8]. All the green space would inter-connect, thereby providing a continuous network of accessible green space [PR 4.10]. The site's trees would be managed and improved and Sindsley Brook would be realigned and reprofiled to enable its wildlife and habitat potential to be realised and to create a Greenway across the site linking the Bridgewater Canal with the WLL.
104. SCC has not meaningfully objected to Broadoak North, which is well contained and has limited views from the surrounding areas. Neither does it object to the marina, which is supported by the BCCM [CD 27]. The location of the green corridor along Worsley Road, with development set back behind green spaces and the existing trees, is also not contested. Furthermore, it has not been argued that there is any continuity issue or relationship between Broadoak North and South [PR 4.22]. The gap between the Bridgewater School boundary of Broadoak North and that with the Beechwood development adjacent to Broadoak South is no more than 100m. This gap cannot have a strategic function but if it is considered that it has one, then a "minded to" approach would deal with the issue.
105. The pedestrian bridge across the canal would improve accessibility between Broadoak South and the residential areas on the other side of the canal. It would contribute to the wider enjoyment of the canal, as well as facilitating improved accessibility across the appeal site and enjoyment of its green infrastructure. In addition, two pitches (at Broadoak North and Aviary Field) are to be made available to the school and local community.
106. Broadoak North and Broadoak South would be linked by the WLL and visual continuity between it and the canal would be enhanced by the 4.53 hectare central Greenway that would provide a continuous linear area of well managed and publicly accessed open land. This Greenway would be between 30 and 100 metres wide with access roads and gardens on either side. It would have a significant interface with both the canal and the WLL. There would also be open views from both the canal and the WLL across the marina. Additionally, a second Greenway would run from the station copse to Dukes Drive Country Park.
107. The new green space would provide a broad landscaped buffer between the canal and the new development and any views of the new development would be significantly softened by the combination of distance and new planting. Apart from the vegetation around the fishing pond and some trees along Worsley Road, which would be removed for the access roads and their visibility splays, the existing vegetation would, for the most part, remain. Additionally, 300 new trees would be planted along the road corridors and green spaces within the development and a new community orchard and a children's play area would be created [PR 5.13-21].

108. It is accepted that the proposal detracts from openness but it would not lead to the fragmentation of or a loss in the continuity of the green space. The green corridors, through the development, would ensure that there was no fragmentation of the core functions and continuity would be maintained. No part of the Greenway is broken off or detached [PR 6.23-25].
109. Only 18.9 ha of the 195 ha of land that comprises the Worsley Greenway would be affected by the built elements of the proposal. That represents 9.7% of the total area. The proposal would have no significant effect on the enjoyment of the WLL or canal. Nor would it have a fundamental impact on the character of the wider area [PR 6.9].
110. SCC's Landscape and Visual Impact Assessment (LVIA) [Pete Coe PC S5] fails to take into account the proposed mitigation or the environmental opportunities and interventions proposed. He did not consider the scheme as a coherent whole, which is the proper consideration. The site is perceived as lying within a well wooded suburban area. There will be no fundamental change to that suburban character as a result of the scheme. Consequently there would be no fragmentation or lack of continuity of green infrastructure. There would be no unacceptable landscape harm arising from the appeal scheme and therefore the Worsley Greenway policy cannot be a proper reason for the dismissal of this appeal.
111. The appeal sites and the Worsley Greenway are little different to many areas of land within large conurbations and they do not portray the principal characteristics of GWs. Consequently there is no overriding planning objection which justifies the appeal sites being kept open in the context of the current housing land position within Salford. A 2001 Government commissioned investigation into the purpose and role of Green Wedges identified six principal characteristics<sup>19</sup>. The Worsley Greenway does not meet the strategic GW criteria when measured against them.
- a. Coalescence.
- It is surrounded by the urban area and does not therefore perform a strategic role of maintaining the separation between settlements. It provides a break in the urban area but that is all. It does not read as a GW as it is a series of separate land parcels visually and physically separated by landforms, roads and vegetation.
- b. Urban form.
- The Bridgewater Canal and WLL are the principal influence on urban form providing barriers to development from the east and to the west. The undeveloped agricultural and wooded land within the Greenway does not define the urban form, which is derived from the suburban layout and the character of the residential areas.

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<sup>19</sup> Strategic Gap and Green Wedge Policies in Structure Plans, Office of the Deputy Prime Minister, 2001 [MW App 9]



c. Links to the Countryside.

The Greenway is separated from the countryside by the built up area and the M60. The WLL provides a link to the countryside but it passes through urban areas to the west of the Greenway before reaching wider countryside. The principal physical link to the countryside is provided by the Bridgewater Canal which is outside of the Greenway.

d. Landscape value and amenity.

There is no unified landscape character. Different parts of the Greenway make different levels of contribution to the amenity of the wider area.

e. Recreation.

Recreational features comprising the WLL, Bridgewater Canal, Worsley Woods, Dukes Drive Country Park and the golf course have a recognised recreational value but that cannot be a justification for a GW designation.

f. Heritage.

Parts of the Greenway are included within or form part of the Conservation Areas but do not on that basis form a justification for the overall GW designation [MW 10.25].

112. As the appeal sites do not meet the GW tests, it therefore follows that there is no justification for the retention of the appeal sites as undeveloped land on a GW basis. In these circumstances it is submitted that when viewed in a section 38(6) context, material considerations decisively outweigh any limited conflict with the DP.

*Ecology*

113. There are no ecological aspects in dispute between the principal parties and the Greater Manchester Ecological Unit (GMEU) agrees that the proposed enhancement features will provide significant biodiversity gain. It is agreed that mitigation measures set out in the Ecological Assessment will ensure that the development will not have an unacceptable impact on wildlife corridors or protected species. The proposal would not cause any unacceptable impact to the sites' value as a wildlife resource and appropriate mitigation measures may be secured by a condition [SOCG 5.37].
114. It is submitted that RAID have not begun to produce any evidence that could lead to any contrary conclusion. The ecological proposals would contribute significantly to the overall sustainability of the development [Anne Goodall (AG) S4]. At Aviary Fields there would be carefully planned management, which will enhance the area and would be sufficient to justify its inclusion in the adjacent SBI. All of the existing wildlife corridors and stepping stones could be retained and extended [AG 4.2.9].
115. The southern part of Broadoak South comprises marshy grassland, with the remaining grassland being species poor, having low structural diversity and low biodiversity value. Sindsley Brook is a stream that is narrow, poached and trampled and there are no invertebrates or foraging bats. Its potential for use by any wildlife species is currently negligible. The lower part of the Brook corridor

will be restored and greatly enhanced to form a true wildlife corridor across the width of the site [AG 4.1.3-5 & 5.2.3].

116. There will also be a new wildlife corridor created along the south western side of the site, linking the Sindsley Brook Corridor to the existing north western woodland block, with a 6m swale containing wildflower grassland and a permanently wet central water body [AG 5.2.4].

### *Recreation*

117. The site lies in an area where parks, amenity space and formal recreational land are very well provided for [PR tables 1+2, pg 27]. Taking into account the proposed provision of 12.06 ha of newly accessible green space (in addition to the marina and ecology area), Worsley would have some 6.09 ha/1000 people of accessible green space which is exemplary. The Salford Green Space Strategy [CD 20] gave no indication of any need for more recreational space overall in this area, although there is an identified need for sports and play facilities. Furthermore, SCC's Open Space-Infrastructure Delivery Plan (Feb 2012) [D C6 2.16] concluded that the case for bringing forward the Worsley Greenway as strategic natural green space was limited. It did not therefore contribute to the strategic provision of natural green space. The Framework at Para 73 directs that LPAs should base planning policies on robust and up to date assessments of facilities and new opportunities.
118. SCC's evidence has shown the area to be well endowed in open space by comparison with the rest of Salford. The scheme will add to such provision, including the provision of a play area. Provision will exceed open space requirements and will help to achieve and promote healthy communities in both the existing community and the proposed development.

### *Marina*

119. SUDP Policy ST4 identifies Worsley Village and the Bridgewater Canal Corridor as an area to be enhanced as a tourist destination. The main parties agree that the marina will help to facilitate these aspirations for Worsley to become a significant visitor destination in line with the BCCM<sup>20</sup> [SoCG 5.29].
120. There is a need for new marina facilities on the canal [SoCG 6.1]. The proposed marina is independent of the recent successful Heritage Lottery Fund bid for improvements to the Bridgewater Canal [DC 10]. The marina would generate £500,000 of additional expenditure each year, as well as 10 new jobs [MW 9.51].
121. The proposed marina would only come forward as part of a wider development scheme [MW pg24 and ex/c]. Without the proposed housing, the delivery of the marina is not viable, fundable or achievable. There is simply no alternative viable funding model for achieving a marina. There was no meaningful evidence to the contrary. As the marina delivers enhanced local tourism and recreational opportunities to the area and it adds a new focal area within the wider recreational network, it must be afforded significant weight in the planning balance for the scheme.

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<sup>20</sup> Bridgewater Canal, Vision and Masterplan for a regional tourist attraction, Salford City Council, 2011 [CD 27]

### *Flood Risk*

122. The Environment Agency Flood Map [Neil Bagley Fig.04] identifies approximately 30% or 9.8 ha of Broadoak South as susceptible to flooding; along with areas downstream of the site known as Alder Forest. The Sindsley Brook flows across Broadoak South and leaves it through a 600 mm culvert under the Bridgewater Canal, which culminates in the Worsley Brook. Flooding is simply caused by the inability of the culvert to accommodate all the water from Sindsley Brook following storms. This leads to water backing up on the site. This is not a case of a natural river channel inherently not being big enough to deal with maximum flows [NB S5].
123. The proposed drainage improvements address the deficient size of the culvert. They would not only alleviate any flooding problem on the site but would also alleviate flooding problems downstream of the site, in the Alder Forest Area, where flooding can affect up to 140 properties. This would be achieved by lowering the flow, which passes from Sindsley Brook into Worsley Brook in times of heavy rainfall. The proposed alterations to Sindsley Brook include the provision of a new channel to the proposed marina. This would divert water from Sindsley Brook into the Bridgewater Canal in times of potential flooding. The overflow is designed to take flows up to and including a 1 in 1000 year flood flow [NB 5.5.5]. The excess flows will thereafter overflow at Barton Aqueduct into the Manchester Ship Canal. This accordingly lowers the flow where Sindsley Brook joins the Worsley Brook in Alder Forest [NB Fig 03]. The control structure is simple and requires no special maintenance.
124. The proposals are supported by SCC Senior Engineer Flood Risk Management, by the Environment Agency and United Utilities subject to appropriate conditions. The realignment also provides the opportunity to provide a new river corridor area on the site, which will provide significant biodiversity and amenity improvements [PR 34]. It has been demonstrated that the sequential and exception tests have been satisfied. Additionally, there would be substantial sustainability benefits delivered by the proposed drainage improvements [MW App 6].

### *Education*

125. SCC is entirely satisfied with the proposed provision, which is comprehensively covered in the supplementary SoCG on educational provision. SCC has a Supplementary Planning Document (SPD) dated August 2013 to guide their approach to developer contributions towards educational infrastructure provision. SUDP Policy DEV 5 provides the policy basis for requiring such contributions [MW S3].
126. At the present time there is surplus capacity at the secondary schools level. This could accommodate the anticipated requirements of the proposed development and no contribution is sought. There is however a projected shortage of primary school places. Contributions with regard to primary education are therefore sought and would be made in full accordance with the Education SPD. The existing schools would not accommodate the primary age children that are likely to reside on the site. As against net capacity for the 2014/15 year of 330 places there would be a requirement for 353 reception year pupil places in 2015/16. There is also a need for a working surplus of an additional 5% to allow for parental choice and in year movement. Pupil

projections demonstrate that the requirement for primary school places would continue to exceed capacity.

127. The agreed option is the re-establishment of a school on the Alder Brook site, south-west of the appeal site, across the Bridgewater Canal and linked to Broadoak South by a new bridge. The City Council has undertaken feasibility work to scope and cost a 2 form entry primary school with 420 pupil places, which would be constructed on the site. The referral unit would be retained within its existing buildings. Such re-establishment has been discussed and agreed with SCC [SoCG Education 3.5].
128. The Appellants have agreed to make a contribution in accordance with the SPD requirements. On the indicative proposed mix, the contribution is likely to be of the order of £1,284,124 at a cost per pupil place of £9,422. This is to be secured through the planning obligation which is CIL compliant.

#### *Air Quality*

129. The proposal would have negligible impact on air quality during construction and a minor adverse impact, as a result of increased road traffic, once completed [Dr Laxton's Statement in MW App 7]. There is no basis on which this proposal could be refused on air quality and pollution grounds.

#### *Highways*

130. It is submitted that there would be no harm to the free flow of traffic on the local highway network arising from this proposal [Mike Hibbert (MH) 6.70].
131. There is no issue between the principal parties. The development is unequivocally supported by SCC, Transport for Greater Manchester (TfGM) and the Highways Agency (HA) [CD 04ee, ff, gg & II]. Each consultee has satisfied itself as to the extent of the development's likely impact on the highway network. It is agreed that the proposed mitigation measures provide an appropriate solution and adequate mitigation. [SoCG Para 5.32 and Para 5.33].
132. It should be noted [MH S7] that
- a. The trip generation and distribution methodology uses industry standard methods of calculation and is reasonable;
  - b. A higher number of residential units have been tested and no lower trip rate is used for the affordable housing;
  - c. New count data, as to traffic volumes at junction 13, has been obtained since the original traffic assessment (TA) and has been taken into account. The HA MIDAS data and TfGM movement counts in July 2013 have been adopted in the JMP VISSIM model and these confirm that there has been no real change in traffic volume.
133. Additionally all three highway consultees conclude that the development would not have a severe impact on both the local and strategic highway network. The proposal accords with SUDP policies ST 5 (maintenance and improvement of transport networks), DES 2 (circulation and movement), A 2 (cyclist, pedestrian and disabled), A 8 (Impact of development on highway network), A 10 (Parking) and A 15 (safeguarding potential transport routes) [MH 7.20-31].

134. The Framework at Para 32 provides that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. This test involves the highest threshold in the Framework below which permission should not be refused.
135. The M60 and junction 13 suffer peak period congestion leading to slow moving traffic on Worsley Road and some other junction 13 approaches, particularly in the morning peak. The AM peak queuing is caused by several factors, including the heavy volume of traffic entering the M60 to travel south, together with heavy volumes of traffic on the motorway itself and the short weaving distances between junctions 12 and 13. In such circumstances the existing roundabouts have limited ability to be able to flow freely [MH 4.48-51].
136. Whilst there are improvements being made to the wider motorway network, the acceptability of these proposals is not reliant on those wider improvements. HA are carrying out Smart Motorway works, which would be completed by the time the first dwellings are available for occupation. The implementation of the Smart Motorway would help to relieve motorway congestion and make journey times more reliable. This would have knock-on benefits for the local road network around junction 13 [MH 4.53 & 5.52-5.64].
137. The appeal proposal provides for improvements to Junction 13 of the M60 as shown on outline drawing M11110-A-026 [MH App 5]. The consultees are in no doubt that these proposals result in operational benefits that unlike the current arrangements conform to modern day standards of design and safety in respect of entry speeds and deflection, with additional entry capacity on each approach. Overall there would be improved conditions at the junction 13 roundabouts. To quote from the highway authority's conclusions following a review by JMP, their independent consultants, "*the mitigation measures will significantly improve queuing on Worsley Road, Walkden Road and Leigh Road. With the development traffic, traffic growth and other committed development the queuing is less than at the current time on these arms*" [CD 5 Pg36].
138. The proposed mitigation [MH 6.56-70] would provide an arrangement which would meet current standards of design in respect of entry speeds and deflection. It would also provide additional entry capacity on each approach through the provision of a third entry lane in conjunction with a third lane on the circulatory sections of the roundabouts. Spiral road markings and keep clear markings would also be used to allow greater movement around the junctions. These mitigation measures have been modelled in both AM and PM peak periods and show that there would be improved traffic management at the roundabouts. This is not a case of the proposals leaving conditions simply no worse off. There are improvements over the do nothing scenario and in such circumstances there cannot be conflict with the severe criterion at Framework Para 34.
139. The HA has separately concluded that the proposed development would not have a material impact on the M60 main line flow. The slip roads will continue to operate within capacity and blocking back would not occur from the roundabout onto the strategic road network mainline. Even with a higher number of vehicles using junction 13, than the TA predicts, the impact on the strategic road network would not be severe [MH Ss 7 and 9].
140. With regard to the issue of the East Lancashire Road (A580) junction with Worsley Road (A572), the Appellants have worked closely with TfGM who are

responsible for the Leigh-Salford-Manchester (LSM) bus-way. The bus lanes proposed on the A580 arms purposefully end 90m before the stop lines and therefore have no bearing on capacity. TfGM note that by ending bus only lanes well in advance of road junctions they will keep all traffic moving at junctions and ensure that junction capacity is not lost.

141. TfGM requested that the Appellants carried out an optimisation of signals test for this junction [CD 2T Pg7]. TfGM analysed the results and concluded that there was sufficient scope to optimise the traffic lights, thereby creating additional capacity. In consequence they raised no objection to the appeal proposal. As a part of the LSM bus-way project, responsive traffic lights of the MOVA/SCOOT variety will be installed that will monitor traffic as it approaches the junction and continuously optimise.
142. It is submitted that there is no issue with regard to either junction that gives any justification for RAID's concerns.

#### *Public Transport*

143. Much of the sites are sustainably located in terms of transport infrastructure [SoCG 2.9] and they are situated in a sustainable and accessible location, which has the potential to encourage future residents to travel by sustainable modes of transport. This is consistent with the objective of locating development where there is good access to public transport and potential for the use of other non-car modes of transport [SoCG 5.10].
144. There are already some 119 buses daily during the week that pass along the sites' frontage, using stops on Worsley Road, plus 33 which route via the Worsley Road/Greenleach Lane junction [MH rebuttal App MH7C]. These services go to Walkden, Swinton and Eccles, allowing connection to other bus services, trains and Metrolink. The nearest bus stops are on Worsley Road. 55% of the developed area will be within 400m of these but those properties closest to the marina could be up to 700m away and residents of those dwellings may be discouraged from using public transport. To combat this, a shuttle-bus service is proposed.
145. The shuttle-bus links the development with Swinton for a period of five years and has been developed with close co-operation from TfGM. The route is from the site to the East Lancashire Road, where it would connect with the LSM bus-way, before travelling on to Swinton centre and its railway station. All properties would be within the preferred walking distance of the shuttle-bus. The service would run every 20 minutes throughout the day and require 2 vehicles to maintain the frequency. The service would take 11 minutes to the LSM bus-way and 15 minutes to Swinton town centre. In the morning peak it could be coordinated with existing services so that effectively there would be a ten minute regular service in that direction along Worsley Road [MH 6.16-34].
146. The LSM bus-way will provide a fast and efficient public transport route between Leigh and MCC. There will be 8 buses per hour passing along the A580 and journey times into MCC from its junction with Worsley Road will reduce from 50 mins to 28 mins, with journey reliability also being significantly improved. TfGM have expressly encouraged the Appellants to route the shuttle bus to connect to the bus-way.

147. The encouragement of this particular route is supported by existing movement to and from the area [D R6 Pg6<sup>21</sup>]. In terms of comparison retail trips MCC is the main destination of local residents and it has considerably higher patronage from this area than has the Trafford Centre. Swinton is the most popular local shopping destination, with more than twice as many trips when compared to Eccles or Walkden. In terms of employment destinations, again MCC was identified as the main employment destination for residents in this area. TfGM understandably therefore considered the best potential enhancement to local public transport and its use would be the interchange opportunity with the LSM bus-way at the A572/A580 junction. It is entirely proper for a shuttle-bus service to be directed in this way. The suggestion that people in Worsley do not use buses is baseless but in any event national guidance is that the opportunity should be given for people to use other forms of transport than the private car and this the scheme manifestly succeeds in doing.
148. There is no evidence to support the argument that the shuttle bus would not be viable. On average, each bus would only have to attract 7 customers to achieve viability. This service will be attractive not only to residents but also to other people who live on the route as well.

#### *Sustainable Development*

149. The site is sustainably located in terms of transport infrastructure and is situated in a sustainable and accessible location [MH 4.9-16], which has the potential to encourage future residents to travel by sustainable modes of transport [SoCG 5.10]. It is consistent with the objective of locating development where there is good access to public transport. In relation to existing facilities the site is sustainably located and there is a reasonable range of facilities in close proximity that would serve the future residents. MW discusses the sites' credentials in the context of sustainable development in S 11 (see also MH at S 4).
150. Bloor Homes is not authority for the proposition that development that would damage the function of a GW is automatically not sustainable development for the purposes of the Framework. That case is easily distinguished from the present. There was more than a five year supply of housing land (Para 183). The DP and GW policy was up to date (Para 184). Judge Lindblom said "*this was not a case where the decision maker had to confront an out of date DP and all that follows from that- including the operation of the policy for decision making in such circumstances in Para 14 and 49 NPPF*" (Para 185). The distinction with the present case is obvious.
151. Further the Judge at Para 56 of the judgment stated: "*The fact that housing is not an acceptable type of development in the GW does not mean that such development can never be permitted. There may be considerations that would warrant a decision to approve it even if it is contrary to Policy 9*". Therefore in a case where there was a five year housing land supply and the core strategy GW policy was up to date, there was no question of automatic refusal of the housing proposal still less so in the present case where the circumstances are entirely different. Plainly here it is a matter of planning judgment between competing issues as has been demonstrated by the references in Bloor, Davis and Barwood.

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<sup>21</sup> Bus Market Assessment Briefing Note [D R6 Pg4]

152. The suggestion that all of the roles set out in the Framework at Para 7 have to be satisfied before a development is to be treated as sustainable development is similarly flawed. It cannot be seriously argued that conflict with any one precludes a development from being sustainable development. The Framework is clear that the policies in Paras 18-218 have to be taken as a whole in assessing what sustainable development means in practice.
153. By Framework Para 18 the government is committed to securing economic growth in order to create jobs and prosperity. It is committed to ensuring that the planning system does everything it can to support sustainable economic growth and that it should not act as an impediment to sustainable growth. The Framework at Para 47 requires LPAs to boost significantly the supply of housing to meet the full objectively assessed needs for market and affordable housing by the provision of specific deliverable sites. These priorities cannot be defeated in a situation where there is a 2.4 year supply of housing land in an authority that has persistently under-delivered housing by the simple automatic response that a site is in a GW and there is no need to go further.
154. Rather the concept of sustainable development in Framework Para 14 is guided by Para 8, which makes clear that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system. It is submitted that on the balance of benefits and adverse impacts, this development taken as a whole is eminently sustainable and the presumption in Framework Para 14 should apply.
155. These matters are reconciled in the last part of Framework Para 14 which says that where the DP is absent, silent or relevant policies are out of date, then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted (which does not apply in this case).

#### *Planning Balance*

156. The adverse impacts do not begin to significantly and demonstrably outweigh the benefits of this proposal. SUDP Policy EN 2 and the other DP policies relevant to the housing supply aspects of this appeal have been shown to be silent and out of date. It is submitted that there is absolutely nothing in any of the points raised by RAID against the scheme since they fail through a lack of any meaningful evidence and comprise mere assertion.
157. The lack of a five year supply means that relevant policies for the supply of housing are out of date. The SHLAA [CD 30] has indicated that SCC cannot begin to produce the necessary housing at the present time without the release of this site. The government seeks to boost significantly the supply of housing and in Salford this can only be done by the grant of planning permissions. There is a quantitative need for housing. This provision performs both the economic and the social role. It should attract significant weight in the planning balance.
158. There is also a substantial and significant separate benefit arising from the aspirational and affordable housing that will help to meet the needs of different groups and provide a range of housing that will not otherwise be provided in the



five year period. This is relevant to the economic and social roles and specifically referenced in the Framework at Para 50.

159. Significant weight should be afforded to the delivery of aspirational housing by this proposal. There is a need for higher quality/higher value family housing within Salford. Growing the supply of such housing can attract and retain economically active households. Worsley is an area of the city capable of accommodating aspirational or executive housing due to the strength of the prevailing housing market and the popularity of the area. Significant weight should also be attached to the site being in Salford West where there is a priority for aspirational housing [SoCG 5.20].
160. In accordance with SUDP Policy H 4 and Policy HOU 4 of the adopted Housing Planning Guidance, the proposal would provide 20% affordable housing or some 120 units comprising 60% for rent and 40% as intermediate housing [SOCC 6.10]. There is a current net additional need for 1019 affordable dpa [SHMA (CD30)] and the parties agree that the ability of the site to deliver the proposed level of affordable housing is a material consideration in this appeal. The Appellants attach significant weight to this factor.
161. The proposal conforms to the housing policies in the DP. SUDP Policy H1 is complied with in terms of providing a balanced mix of dwellings and the development is in a sustainable location (Social role).
162. The provision of this adequate and continuous supply of housing is closely tied into the Government's commitment to securing the economic role as part of the golden thread of sustainability. Planning is not to act as an impediment to sustainable growth and significant weight should be attached to it.
163. The marina accords with SUDP Policy ST 4, which promotes it as a key tourism area. It will involve an investment of some £3-4m, enhancing the role of the canal as a visitor attraction and significantly improving the recreational opportunity and the function of the canal. This is the only way in which a marina will be delivered. In addition the marina will generate some £500,000 of expenditure p.a. and some 5,000 visits. This factor weighs heavily in each of the three roles and should be given significant weight.
164. There will be very considerable direct and indirect employment opportunities created during the construction period, together with investment in the building industry. That is perceived by the government to be vital to the fulfilment of the economic role. Construction will generate 108 local jobs. Some £53m construction expenditure will be made over the 10 year construction period as a result of the marina and houses.
165. After completion there will be a significant injection of expenditure on goods and services in the area, which must weigh significantly under the economic role. The development has the potential to generate £7.4 m annual gross expenditure on goods and services. There will be £1.27m extra Council Tax Receipts per annum or £12m over 12 years. It would also generate £1.2m of New Homes Bonus. Some 14 retail jobs would be created at a new retail unit on Broadoak South and the marina would create 10 jobs (Economic role).
166. There are both qualitative and quantitative sport improvements (Environmental and Social role).

167. The shuttle bus service will provide the opportunity for and encourage the use of alternative modes of transport not only by the residents of the development but also by the existing residents along the route. It will allow all to use the LSM bus-way, giving direct access to MCC (Environmental role).
168. The improvements to Sindsley Brook will enhance wildlife in the corridor. Ecological improvements will also be secured at Aviary Field. The environmental benefits of the scheme are to be welcomed as is the contribution that the scheme would make towards enhancing the formal recreational value of the site [CD 5 & NPPG50]. GMEU agreed that the proposed enhancement would provide significant bio-diversity gain (Environmental role).
169. The reduction in flood risk to the Alder Park area is a significant environmental benefit to those 140 houses presently susceptible to flooding issues (Environmental and Social role).
170. The new Bridgewater Canal footbridge would be of significant benefit in delivering a crucial link in the footpath network to the benefit of the wider community. The junction 13 highway improvements would also benefit the wider community (Environmental role).
171. Inevitably, release of this land for housing will minimise the need to release and use GB land.
172. There will be 11.25ha of new accessible open space which is not currently available to the community. This will enhance recreational provision in the area and promote healthy communities.
173. The benefits of the scheme are therefore extensive. When they are properly weighed in the balance against reliance on a Greenway policy that was abandoned in the CS and would no longer exist if SCC had continued with the CS, the only proper planning judgment can be that the adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits when assessed against the Framework policies taken as a whole. The presumption in favour of sustainable development should therefore apply.
174. The benefits of the proposal weigh the balance down resoundingly in favour of the scheme [See MW 13.1-9].

### **The Case for Salford City Council**

175. Building 600 homes in the Worsley Greenway would fragment and detract from its openness and continuity. In SCC's opinion, the proposal does not accord with the DP because it offends SUDP Policy EN 2. In this context it also considers that planning permission should only be granted if material considerations indicate that the presumption, in Section 38(6) of the Planning and Compulsory Purchase Act 2004, in favour of the DP should be set aside. In its opinion, the contribution that the proposal could make to lessen the shortfall in housing land supply does not and the appeal should consequently be dismissed.
176. The fields on either side of Worsley Road (Broadoak North & South), which constitute the majority of the appeal site, are meant to be safe from being built upon because they are part of the Worsley Greenway which is "*a strategically important GW ... of great value to the city and local area*" (Supplementary text to SUDP Policy EN2 [CD09 Para 12.7]).

177. SUDP Policy EN 2 is of fundamental relevance and stands in the way of the proposed development as it is in breach of that policy. The proposal would unquestionably "*fragment*" (break<sup>22</sup>) and "*detract from the openness and continuity of the Greenway*".
178. The meaning and effect of planning policy is now established as a matter of law.<sup>23</sup> It is obvious that "*openness*" in SUDP Policy EN 2 means (just as in the GB) "*free from built development*" (unbuilt upon). The Appellants accept that the proposed development would "*detract from the openness ....of the Greenway*" and is in breach of Policy EN 2 [PR & MW ex/c and x/ex].
179. Given this, the disagreement between SCC and the Appellants as to whether the proposed development would also "*fragment*" or "*detract from the ....continuity of the Greenway*" becomes less significant in relation to deciding whether SUDP Policy EN 2 is broken. Nevertheless, the issue needs to be addressed because if it would harm the continuity of the Greenway then this would make the conflict with SUDP Policy EN 2 even more severe.
180. The disagreement between SCC and the Appellants appears to stem from a disagreement about the meaning of "*continuity*" in SUDP Policy EN 2 [MW x/ex]. The policy refers to "*the ....continuity of the Greenway*" and this begs the question – continuity of the Greenway in what sense?
181. Continuity has to mean more than inter-connectivity of access [MW & PR x/ex] because the only PROW that runs the length of, and therefore connects, the Greenway is the WLL. If the purpose of this part of the policy was simply to protect the "*continuity*" of this path, then there would be no need to protect the open land that lies alongside and in places, to both sides of it. The "*continuity of the Greenway*" referred to in SUDP Policy EN 2 has to have a spatial meaning.
182. The "*continuity*" referred to is the continuity of the Greenway as an open (unbuilt upon) GW. It is clear from looking at the extent of the Greenway designation on the SUDP Proposals Map [D C2] that it is a series of unbuilt upon areas, which together comprise the "GW" referred to in SUDP Para 12.7. As the Para explains, it provides "*relief within an urban area*". This can be seen readily by looking at a plan [PR Fig RT7]. It is apparent also from the fact that the area of housing development at Beechwood Drive is excluded from the designated Greenway. The SUDP says: "*the protection ... of Worsley Greenway, in its entirety, is ... of great strategic and local importance.*" (SUDP Para 12.7). It is obvious that this means protection from built development, and that the purpose of protecting the Greenway in "*its entirety*" is to retain it as a continuous open green wedge. The appeal site is located within the centre of the Greenway and its loss to development would effectively sever the continuity of open land that exists, segregating the Worsley Woods to the north from the golf course and country park to the south [PC 4.11].
183. In addition, the proposed development would breach the second part of SUDP Policy EN 2 because it would cause unacceptable harm to the character and value of the Greenway as an amenity, and as an open recreation resource [PC ex/c].

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<sup>22</sup> Oxford English Dictionary (OED)

<sup>23</sup> High Court of Justice Case No: C1/2013/2734, City and District Council of St Albans v Hunston Properties Ltd & SSCLG at Para 4 [D C14]

The harm to the amenity of the Greenway would be severe and to its recreational value significant. The openness of the GW, which provides relief within an urban area, is a large part of the character and value of the Greenway as an amenity. Openness is specifically referred to in relation to recreation ("*open recreation*") as well. Given these points it is hard to see how building 600 homes here could do anything other than cause unacceptable harm in the terms referred to in the policy.

184. The 2001 research report (published originally by the ODPM) into GW style policies, found that such policies have a number of objectives [MW App p 9]. The Appellants consider that the Greenway and/or the appeal sites do not perform well against such objectives [MW sections 8 and 10]. SCC disagrees and gave evidence which explained why [SW rebuttal and ex/c]. The 2001 report was research by consultants. It was not endorsed by Government and was not Government policy at the time and never has been since. Accordingly, one must judge whether the appeal proposals breach SUDP Policy EN 2 by reference to its terms and not by reference to the objectives set out in the 2001 research report (which pre-dated the adoption of the SUDP in 2006 by a number of years). The wider question as to whether an open GW (Greenway) should be retained, or whether the need for housing land is so great that it should not be retained, is a matter for the DP making process and not for a section 78 appeal.
185. In order to reach a conclusion in respect of the first limb of section 38(6) (the determination of this appeal in accordance with the DP) it is necessary only for there to be a breach of SUDP Policy EN 2. The Appellants agree that when it comes to considering whether material considerations indicate otherwise (under the second limb), it is relevant to consider how badly the policy would be broken. Clearly, the more extensive the breach, the weightier the material considerations would have to be to overcome it [MW x/ex].
186. As was held in *Tesco Stores Ltd v Dundee City Council*<sup>24</sup>: "*Where it is concluded that the proposal is not in accordance with the DP, it is necessary to understand the nature and extent of the departure from the plan, which the grant of consent would involve in order to consider on a proper basis whether such a departure is justified by other material considerations*" (Para 20).
187. Whether the breach of SUDP Policy EN 2 would be limited as alleged by the Appellants [MW ex/c] or severe as claimed by SCC is in dispute. However, the policy would be technically broken even by one house being built and certainly by a few. It is therefore impossible to comprehend how building 600 homes on open green fields could be regarded as anything other than a severe breach of the policy.
188. The severity of the breach does not depend upon the extent of the land in question when compared to the extent of the entire Greenway, although if it does, the breach would still be profound. The two appeal sites (north and south) amount to some 32 ha which represents over 16% of the area of the Greenway (195 ha). The Appellants' figure of less than 10% of the Greenway excludes the green areas proposed within the development. It is inappropriate to look at the

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<sup>24</sup> *Tesco Stores Ltd v Dundee City Council*, United Kingdom Supreme Court Judgement 13 (2012) [D C15]

site and the scheme in this way as, despite the green areas, the development would still be a large housing estate. However, 10% still represents a large part of the Greenway and it would set a precedent.

189. The location of the appeal sites within the Greenway itself would add to the severity of the breach of policy, because Broadoak South lies within that part of the Greenway where uniquely there are substantial areas of open GW land on both sides of the WLL. Building 600 homes to one side of the PROW would destroy this sense of openness.
190. In SCC's opinion the degree of breach of policy is best comprehended by the simple point that 600 homes are proposed in a protected area where normally it would be difficult to get planning permission to build even one or just a few.
191. Accordingly when considering whether material considerations indicate that permission should be granted, even though the DP tells us emphatically that it should be refused, the severity of the breach of SUDP Policy EN 2 (this is not a technical breach, this is a fundamental breach) means that any countervailing material considerations need to be very powerful indeed.
192. In addition to the severity of the breach of SUDP Policy EN 2 it is necessary to take into account any other harmful impacts that it is concluded would arise. There would be significantly harmful landscape and visual impacts, which would be irrevocable and radical [PC S4]. Building a housing estate, however well laid-out and landscaped, on open green fields which are bounded and criss-crossed by public footpaths could not do otherwise.
193. The fundamental fault-line in the Appellants' approach to the landscape issue, [PR S6] is that no significance is attached to the openness of the appeal sites and the policy imperative in SUDP Policy EN 2 to protect the Greenway as an open GW, which provides relief within an urban area. Openness is not a valid green infrastructure function in the Appellants' case [PR 3.50)].
194. The LVIA chapter in the ES [CD 01n.7] is not a proper assessment of the likely significant impacts of the proposed development. The ES should have examined and assessed the impacts of the proposed development on the site itself but it did not. However, that is the point of a transparent and proper ES. PR conceded in x/ex that the criticisms of the ES for not doing so were accepted.
195. The ES does not find a single instance of significant adverse impacts in landscape or visual terms for the development once completed. This is despite the fact that Broadoak South is bounded and criss-crossed by public footpaths, which make the space accessible to all<sup>25</sup>. This space would be transformed from open green fields into a housing estate of some 540 homes. The Appellants recognised this [PR ex/c] and acknowledged that PROW 163 would be "*severely changed*".
196. The purpose of a LVIA chapter in an ES is to enable a proper and balanced judgment to be made with the significant adverse impacts properly catalogued, and not disguised. This is another example of how the Appellants' LVIA is not an

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<sup>25</sup> See PR's Green Infrastructure report CD 01k on page 11 about the paths across the golf course. She agreed in x/ex that the same App plies to the paths across Broadoak South

- assessment of likely impacts and in consequence no reliance should be placed on its conclusions. SCC's assessment is much more objective and appropriate.
197. The Appellants' Green Infrastructure Report [CD 01k] does not evaluate the significance of the openness of the appeal sites. For example openness in SUDP Policy EN 2 is adjudged to be similar to the concept of separation in CS Policy GI1 (11)<sup>26</sup>. The Appellants accepted that this is clearly not the case [PR x/ex].
198. One can see some built development from the paths that bound and criss-cross Broadoak South, for example the backs of houses in Drywood Avenue are readily apparent to one side of PRoW W70. The Appellants allege that this lessens the value of the open green fields that are the appeal sites [PR 2.62]. However, this cannot be so, the surrounding built development instead makes them all the more important, as the contrast between them and adjoining and/or otherwise visible built development is the very relief within an urban area that SUDP Para 12.7 refers to. This important and valued relief would be fundamentally transformed and lost by building a housing estate here. Whereas currently there is a clear break in the urban form, the development would remove the rural break and lead to a clear perception of the closing of the gap between Alder Forest and Hazelhurst [SW x/ex].
199. The appeal sites are not urban land, they are part of a GW that provides "*relief within an urban area*"; there is a distinction [SW x/ex]. The huge significance of the appeal sites to Salford residents near and far was made clear during the evidence given by RAID and other objectors. This site is very precious to the people of Salford and the footpaths are well-trodden and regularly used. The rural character of the footpaths compared to the more managed character of Dukes Drive Country Park to the south was stressed. Their evidence also demonstrated that the Greenway and the appeal sites, particularly Broadoak South, are valued and regarded as a Salford-wide resource. The local MP stressed their significance to health and well-being. The way in which the community spoke in defence of its much loved green fields brought to life the point made by the European Landscape Convention [D C8] that "*the everyday*" landscapes are treasured by people and are as much a part of the identity of communities as "*outstanding*" landscapes.
200. There is a substantial extent of agreement between the landscape opinions of Miss Walsh and Mr Coe [PC S6]. In the first of Miss Walsh's memos (PR App A) it was said that the proposed development would cause "*significant*" impacts on landscape character and that there would be a "*significant*" loss of open character. In her 2<sup>nd</sup> memo [CD 04z (pg2)] she made it clear that her advice was based upon "*assuming*" that the principle of "*such a large scale development*" and its scale were acceptable; in other words, what she assessed was whether if 600 homes are acceptable here, the scheme has done a good job in terms of its layout and landscaping. SCC's case isn't based on criticising the quality of the layout and landscaping of the proposed housing estate but rather SCC takes a much more fundamental point, namely that the estate should not be there in the first place.

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<sup>26</sup> Any of the tables in the report show this apparent comparative exercise e.g. those on pages 27 and 35 of CD 01k

201. The SLCA describes the openness of the GW as one of its key, defining characteristics [CD 31]<sup>27</sup> and advises that *"the mainly rural character"* should be conserved [CD 31 (pg44)]. Building 600 homes here, however well laid-out and landscaped, would be completely at odds with this guidance.

#### *Housing land supply*

202. Were it not for the fact that SCC has less than half (the equivalent of some 2.43 years) of the 5 years of housing land supply it is required to have, in order to be in accordance with the Framework at Para 47, the Appellants would not stand any chance of being allowed to build 600 homes here. The big question in the case is therefore whether contributing to lessening the shortfall in housing land supply is a sufficiently compelling justification to set aside the protection given by the SUDP to the Worsley Greenway. SCC does not think so.

203. National planning policies in the Framework are material considerations. They do not have the weight given by statute to the Plan but they might in certain circumstances underpin an argument that a planning decision should be made which is not in accordance with the Plan.

204. The presumption set out in Para 14 of the Framework pre-disposes the planning weighing scales so as to favour development such that where it applies, planning permission is to be granted *"unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits"*. However, SCC's case is that the presumption in Framework Para 14 does not apply to the appeal proposals.

205. The Framework at Para 49 states that: *"Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning authority cannot demonstrate a five-year supply of deliverable housing sites."* The High Court in Davis<sup>18</sup> is binding authority that a GW policy like SUDP Policy EN 2 is not a policy for the supply of housing (Para 47). It would be an error of law to conclude that it is. The GW policy in Davis (Para 29 and Para 35) is similar in its effect to SUDP Policy EN 2. The Appellants [MW ex/c] drew attention to Para 41 of the Judgment (which referred to other housing sites) but that does not affect or bear upon the principle decided in the case.

206. In the subsequently decided case of Barwood<sup>16</sup> the High Court did not depart from Davis in relation to green gap style policies<sup>28</sup>. Instead, in Barwood a distinction was drawn between (a) policies like green gaps which apply to a *"particular"* (Para 43) or *"specific"* (Para 47) area, and which are not to be regarded as *"relevant policies for the supply of housing"* and (b) policies which are *"very general"* and *"generally applicable"* (Para 47) such as countryside policies, which are. Barwood is authority simply for the proposition that a policy which precludes housing development *"in open countryside generally"* is a policy *"for the supply of housing"*. In the case of this appeal, SUDP Policy EN 2 is not such a policy. Instead (as can be seen by looking at the SUDP Proposals Map [D

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<sup>27</sup> The map on page 25 shows the Greenway as the Worsley Woods Wedge. With this in mind see Para 6.18 which refers back to the overall key points in Paras 6.2 and 6.3 where the openness of the area is stressed

<sup>28</sup> See Barwood at Paras 38, 39, 43, 45 –47.

C2] where the limited (195 ha) extent of the Greenway can be seen) it is a policy within category (a) and not (b).

207. The Appellants' argument that because the Greenway could potentially accommodate some 1,000 of the 1,600 homes on greenfield sites in Salford West that were discussed at the Examination into the (withdrawn) CS, demonstrates that SUDP Policy EN 2 affects housing numbers and therefore is a policy "*for the supply of housing*" is a weak argument. Any restrictive policy which for spatial planning reasons (e.g. to separate communities and/or to provide green relief within an urban area) seeks to protect land from being built upon must inevitably have an effect on the supply of housing. This does not and cannot mean that because of this it is properly characterised as a policy for the supply of housing. Otherwise, the GB, which suppresses the supply of housing land, and in Salford is much greater in area than the Greenway [SUDP Proposals Map (D C2)], would be a policy for the supply of housing as well.
208. The reference in Barwood at Para 47 to policies "*which could sensibly exist regardless of the distribution and location of housing or other development*" concerns "*policies designed to protect specific areas ...such as gaps between settlements, [or] the particular character of villages.*" The Greenway policy (EN 2) is just such a policy, it is designed to protect a specific area, which is a GW that separates distinct communities and provides relief within an urban area. Amongst other things, it also provides the setting for Worsley [CD09 at Para 12.7]. Whilst it is of course the case that the Greenway affects the supply of housing land (just like the GB does too) the underlying purpose of the policy is to protect an area for spatial planning reasons (again just like the GB).
209. Accordingly, on the established case law (namely the decisions of the High Court in the Davis and Barwood cases) SUDP Policy EN 2 is not a policy for the supply of housing. Furthermore, given the language used in Framework Para 49 which, as the Judge emphasised in Davis, concerns "*policies for the supply of housing*"<sup>29</sup>, SUDP Policy EN 2 is not a policy affected by that Para.

#### *Sustainable development*

210. The "*presumption in favour of sustainable development*" in Para 14 of the Framework only applies to a scheme which has been found to be sustainable development<sup>30</sup>. The Judge in the Davis case held that: "*It would be contrary to the fundamental principles of NPPF if the presumption in favour of sustainable development in Para 14 applied equally to sustainable and non-sustainable development.*"
211. Both the Appellants and the case officer, who recommended that permission be granted,<sup>31</sup> place a great deal of reliance upon the application of the presumption in Framework Para 14. SCC nevertheless submits that as a matter of law it does not apply unless the proposed development is found to be sustainable in the first place.

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<sup>29</sup> See Davis at Para 47 in which "supply" is emphasised twice by the Judge

<sup>30</sup> See Davis at Para 37

<sup>31</sup> See the "overall conclusions" on page 50 of the Planning Officer's report to the Planning and Transport Regulatory Panel (31 October 2013) in CD 05



212. It has also been held by the High Court that development which would damage the function of a "GW" is not "sustainable development" for the purposes of the Framework.<sup>32</sup> The GW policy in *Bloor Homes*<sup>33</sup> was similar in its effect to SUDP Policy EN 2 in this appeal.
213. In that case there was a GW policy, the purpose of which was to keep land open between settlements (Para 55). The GW in that case had a role as "green infrastructure" i.e. footpaths (Paras 30 and 179) and by contributing "to the quality of life of local residents" (Para 30). Policy EN 2 in the case of this appeal is strikingly similar in purpose and effect, it too seeks to keep an area (the Greenway) open (as green relief within an urban area) with the public rights of way, which bound and criss-cross it, being specifically part of its defined great value. It is obvious from reading SUDP at Para 12.7 that the Greenway is considered to play an important part in the quality of life of local residents. This latter point was substantiated time and again in the eloquent testimony of local residents at the inquiry.
214. In *Bloor Homes* the Judge held that: "*On any sensible view, if the development would harm the GW by damaging its character and appearance or its function... or by spoiling its amenity for people walking on public footpaths nearby, it would not be sustainable development within the wide scope drawn for that concept in Paras 18 to 219 of the NPPF*" (Para 179). At Para 6 the Framework says that "*these policies taken as a whole constitute the Government's view of what sustainable development ...means in practice for the planning system*". The Judge went on to conclude that a development which would conflict with a DP policy aimed at protecting a GW from development is "*in this very obvious sense ...unsustainable*" (Para 180).
215. The fact that in *Bloor Homes* there was a 5 year supply of housing land (Paras 183 and 185) does not bear upon the decision made (the ruling on the point) in *Bloor Homes*. That is based on the simple point that if there is a DP policy which is directed towards keeping a GW open for spatial planning reasons then building within it, in breach of the policy, cannot be characterised as sustainable development within the scope of that concept in the Framework. That decision does not depend upon whether or not there is a 5 year supply of housing land.
216. The Framework explains in Para 7 that sustainable development has three dimensions: economic, social and environmental. At Para 8 it explains that: "*These roles ...are mutually dependent*" and that: "*...to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously*". The Appellants' notion that in order to be sustainable a development need only achieve one or other (i.e. not all three) of these roles is untenable given the terms of Framework Paras 7 & 8.
217. SCC's assessment of the sustainability of this proposal is contained in SW S6.5. In particular, the proposed development would undermine the social role of sustainability by its deleterious impacts on the well-being of local residents, and those from the city more generally. They treasure the Greenway and these

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<sup>32</sup> *Bloor Homes* Paras 79 and 180

<sup>33</sup> *Bloor Homes* Paras 11 and 30

fields that are bounded and criss-crossed by footpaths [SW Para 6.5.3]. RAID and other third party witnesses brought to life in their evidence to the inquiry just how valued Broadoak is. They substantiated what is said in the SUDP at Para 12.7 namely that the Greenway is "*of great strategic and local importance.*"

218. In addition, the proposed development would cause severe damage to the environmental role of sustainable development by building 600 homes on land that is meant by policy to be kept open for spatial planning reasons. Furthermore, there would be significant harm to landscape character and public visual amenities.
219. For all these reasons, the appeal proposals cannot be characterised as "sustainable development" and as a consequence of this the presumption in favour of sustainable development set out in the Framework at Para 14 does not apply. The importance of this submission is that even if (contrary to SCC's case) it is concluded that the Greenway policy is "*out-of-date*" the presumption would not apply because (as per Davis) what is proposed here simply is not sustainable in the first place.
220. Furthermore a GW policy is not inconsistent with the Framework and thus out-of-date because it does not set out how it can be overcome (i.e. because it does not contain a "cost/benefit" approach). This was decided by the High Court in *Bloor Homes*<sup>34</sup>.
221. The presumption in the Framework at Para 14 potentially applies where "*the DP is absent*" or "*silent*" but neither of these is relevant here given the very real presence and amplitude of SUDP Policy EN 2.<sup>35</sup> The notion that the plan is "*silent*" (because it does not provide for a sufficient supply of housing land) is untenable given what was held on the subject in *Bloor Homes* at Para 50: "*...silence in this context must surely mean an absence of relevant policy. I do not think a plan can be regarded as "silent" if it contains a body of policy relevant to the proposal being considered and sufficient to enable the development to be judged acceptable or unacceptable in principle*". In this case there is a sufficiency of policy to enable this to happen because SUDP Policy EN 2 tells us emphatically that the development is unacceptable in principle.
222. The only other occasion upon which it potentially applies is where relevant policies are out-of-date. SUDP Policy EN 2 is not a policy for the supply of housing and so it is not rendered out of date by virtue of the shortfall in housing land supply. SUDP Policy EN 2 is also not inconsistent with the framework and thus it is not potentially out of date under Framework Para 215 because it does not contain a "cost/benefit" approach.
223. Indeed the Framework positively advocates at Para 157 that "*crucially*" Plans "*should identify land where development would be inappropriate*" and so the principle of having a policy which inhibits development in a GW is not inconsistent with the framework either. MW accepted this in x/ex.
224. Whether or not there should continue to be a GW policy like SUDP Policy EN 2 because of the extent of the shortfall in housing land supply or because it is no

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<sup>34</sup> See *Bloor Homes* at Para 181 - the last three sentences and Para 186

<sup>35</sup> See the discussion of these concepts in *Bloor Homes* at Paras 44–58

longer regarded as *a la mode* to have such policies, is not a matter for a section 78 appeal like this; instead the Hunston judgement<sup>23</sup> at Para 26 determined the confines of the S78 process and determined that such matters are for plan-making.

225. The Appellants [MW 8.35] argue that SUDP Policy EN 2 is out of step with the Framework and is consequently out-of-date because it is a "*landscape policy that falls foul of the advice in Framework Para 113, which states that policies concerning landscape areas should contain criteria ...against which proposals for ...development ...will be judged*".
226. However, SUDP Policy EN 2 is not a landscape policy; it is a spatial policy i.e. keeps land open or unbuilt upon. The Policy does not mention landscape, whilst the supplementary text only mentions "*attractive landscapes*" and "*attractive woodland*" as two amongst the thirteen qualities of the Greenway. However, this does not mean that the policy itself is a landscape policy. The LVIA [ES (CD01 (n)) *Para 7.111*] does not apply additional sensitivity to the change to the Greenway by virtue of SUDP Policy EN 2 for that reason [PR x/ex].
227. Even if it is right to characterise SUDP Policy EN 2 as a landscape policy, all that this would mean under Framework Para 113 is that it should contain criteria against which to judge development proposals. It does. The criteria in the policy concern openness and continuity and amenity wildlife, agriculture and recreation. If a development does not infringe these criteria then it passes them and the policy. The Framework at Para 113 does not require a landscape policy to set out when exceptions might be made to it.
228. Whilst the 2<sup>nd</sup> sentence of Framework Para 113 appears to be concerned with ecological designations, even if it does apply to landscape areas as well, it does not add anything of substance in the case of SUDP Policy EN 2, because as submitted already this is not a landscape policy, and because all that the 2<sup>nd</sup> sentence of Framework Para 113 refers to is making "*distinctions between the hierarchy of international, national and locally designated sites*". The reference to "*international*" sites supports the contention that this sentence is all about ecological designations because whilst there are international ecological designations there are not international landscape areas. If this is relevant to SUDP Policy EN 2, it is clear from SUDP Para 12.7 that the Greenway is regarded as being of "*great*" strategic (city-wide) and local importance as open land and the policy seeks to protect it because of this.
229. The Appellants argue that SUDP Policy EN 2 should be given less weight because in the draft CS [CD10i] SCC did not continue with the Greenway. This is true but the CS has been withdrawn and so it has no status or weight at all. If it is concluded that the CS is relevant in some or other way then it must also be borne in mind that the deletion of the Greenway was controversial. Local objectors argued for its retention and because the Inspector did not get to the stage of reporting on soundness we have no way of knowing what he would have made of the issue.
230. In addition if one is to consider the withdrawn CS one cannot just consider what it omitted to do, one must also consider what it did do. The CS had a green infrastructure policy (GI1) and the appeal sites and what is currently designated as the Greenway are shown as green assets on Figure 33 of the CS [CD 10i pg

219]. It is clear from the 2<sup>nd</sup> Para of G11 that the functions for green infrastructure, as listed in the policy, were to be "*protected and enhanced*". One of the listed functions (item No. 11) was "*separation*". Had CS Policy G11 become adopted policy then what is currently the Greenway would have been protected from built development by the requirement in G11 to "*protect and enhance*" the role that it (what is currently the Greenway ) plays in separating areas of built development (communities). This separation function can be seen vividly by looking at PR's Figure RT7. It is what is currently described in SUDP Para 12.7 as "*relief within an urban area*". The Appellants' Green Infrastructure report [CD 01k] preceded entirely on the basis that item 11 did not apply to the appeal sites.

231. The Greenway was not listed in policy G11 as a strategic sub-regional green resource but this is nothing to the point; the two areas that were so described [CD 10i pg 218] are Chat Moss and the Irwell Valley. They were designated as areas which "*stretch beyond the city's boundaries*" (Figure 23 on page 219 and Para 19.6 on page 220). The Greenway is within Salford and therefore would never have been a candidate for co-operation between neighbouring authorities.

232. Had the CS proceeded to adoption in the form of the withdrawn draft, although the appeal sites would no longer have been protected from built development by Policy EN 2 of the SUDP, they would instead have been protected from built development by the requirements of G11.

233. In addition to this protection, the CS, had it been adopted in the form of the withdrawn draft, would also have inhibited built development on the appeal sites by virtue of CS Policy DP1. This sought to protect green fields from development and prioritise brownfield development, a theme that the Government is now beginning to return to following the Chancellor's 2014 Mansion House speech<sup>36</sup>. The issue is not whether this policy would have survived the examination process, it might not but then again the Greenway might have been re-instated instead. However, if the CS did not have a specific Greenway policy at adoption, SCC would have sought to protect sites like the appeal sites by applying instead Policies G11 and DP1.

234. Under withdrawn CS Policy DP1 the appeal proposals would have been inconsistent with or would not have been able to take the benefit of items 2 to 6 inclusive of the policy. Item 1 of the policy would have addressed the proposition as to whether "*the development*" i.e. the development proposed in an application, here 600 homes, could have been accommodated on brownfield land. The proposition was not addressed to the wider question of whether all of the future housing required in Salford could have been accommodated on brownfield land<sup>37</sup>. In the case of the appeal proposals the answer to the question raised by item 1 would have been yes it can as there is planning permission for several thousand dwellings on brownfield land even in the agreed available supply of housing land

235. However, even if this is not accepted, the appeal proposals would have been precluded by G11.

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<sup>36</sup> George Osborne, Mansion House Speech 12th June 2014 (D C9)

<sup>37</sup> In re-ex MW referred to CS Para 8.7 but this does not support his argument

236. SCC did not identify the appeal sites as “likely” to be required for housing development in one of the Topic Papers for the examination into the draft CS [CD 10b]. It discussed the appeal sites and others within Salford West<sup>38</sup> in very tentative terms<sup>39</sup> (the repeated use of the word “*could*” and the explicit acknowledgment that no detailed analysis had been carried out supports this contention).
237. Most importantly however, the Inspector did not issue a report (the CS was withdrawn) and so we have no knowledge of what he thought of the notion of building houses here. The Inspector issued “*draft preliminary conclusions*” [CD 10d Para 1] in which he asked SCC to give “*further consideration*” to a site search sequence (Para 4) at the end of which sequence he commented that: “*Other parts of Salford West may be called upon*” (Para 6). The Inspector made no recommendations at all concerning the release of any such sites nor did he endorse the suitability of any of them for housing development.
238. Quite apart from all these points concerning whether SUDP Policy EN 2 is or is not out-of-date, the presumption in Framework Para 14 simply does not apply in the first place because the proposed development is not sustainable development as it would harm the function of the GW protected by SUDP Policy EN 2.
239. For the above reasons, the presumption in Framework Para 14 does not apply here. However, even if it does apply, the proposed development would cause so much damage to the principle of the Greenway, as well as visual harm to its landscape (together with whatever other impacts referred to by RAID and local residents are found to have been substantiated) that these would “*significantly and demonstrably outweigh the benefits*” (principally, contributing to lessening the shortfall in housing land supply).
240. Reverting to SCC’s primary case, namely the proper application of section 38(6) of the 2004 Act, the fundamental issue is whether the degree of contribution that the appeal scheme would make to addressing the deficiency in housing land supply is compelling enough as a material consideration to indicate that permission should be granted despite the severe breach of SUDP Policy EN 2 and the significant landscape and visual impacts that would result. If any of the other points made by RAID and local residents, such as traffic and highways impact, are accepted then these impacts would need to be added to those just recited i.e. there would be an even higher hurdle in the way of the Appellants.
241. The Appellants agree that unless the decision is seen as finely balanced, the case boils down to the housing land shortfall and that if this is not regarded as sufficiently compelling to indicate otherwise, the various other benefits of the scheme (the footbridge, the reduced floodplain, open spaces, ecological, public transport, highway improvements, the marina and economic) would not outweigh the harm to the Greenway [MW x/ex]. Even in a finely balanced case it is impossible to comprehend how the footbridge or the marina etc. could justify building a housing estate on these protected and much treasured green fields.
242. Although SCC considers that the marina would be a beneficial part of the appeal scheme this does not justify the grant of consent for 600 homes. The

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<sup>38</sup> See App C of CD 10(b) Paras C10 and C11

<sup>39</sup> MC agreed with “tentative” in x/ex

Appellants' evidence (MW rebuttal) explains that the marina needs to be cross-funded by some housing development but there is no indication of the extent to which this needs to occur. Accordingly, the extent to which the inclusion of the marina has lessened the ability of the scheme to provide more affordable housing is also not known.

243. SCC has accepted the CS Inspector's recommendation of 1,600 dpa as the most up to date and independently scrutinised objectively assessed housing need in accordance with the Framework. In these circumstances and allowing for a 20% buffer and meeting the backlog within 5 years there is a housing requirement of 12,604 dwellings [MD S4]. The SHLAA identified a supply of 6,775 but following discussions with the Appellants, SCC agreed to reduce this to 6,121. On this basis there is only a 2.43 years supply [B2]<sup>40</sup>. Although the land with planning permission could deliver in excess of 13,000 dwellings, because of a change in housing market circumstances, many of them are unlikely to be completed within the 5 year period. 72% of committed dwellings are apartments and 94% are on brownfield sites [MD S5 & DP30].
244. Following the withdrawal of the RS, which set out an annual average housing requirement of 1,600 dpa, up to 2021, there is no longer any up to date DP policy on housing need and supply. SCC looked at a number of alternatives, including the SUDP where Policy ST 2 set an annual rate of housing provision of 530 and the CS proposal for 1,300 dpa. It also considered the DCLG 2011 household projection which forecasted an annual average increase of 1,354. It settled on the 1600 dpa recommended by the CS Inspector because he had said that it was an objective assessment of need in accordance with the Framework [MD section 4].
245. In his approach to new housing [CD10d] the CS Inspector recommended a sequential approach for new housing land, looking first at the regional centre and secondly at the more urban parts of the city. He was more guarded in recommending a search for land in Worsley. The Mayor's report [CD 20f], in response to the Inspector's letter, specifically refers to the need to prepare evidence to deliver sustainable development. The appeal proposal does not represent sustainable development [SW Rebuttal Para 2.2].
246. How much weight should be given to the contribution that the appeal proposals would make to reducing the shortfall in housing land supply? SCC acknowledges that with a housing land supply of 2.43 years and a shortfall of 6,483 homes the problem is a big one (MD x/ex). The shortfall and the extent of it are self-evidently material considerations in determining the appeal but when it comes to issues of weight and whether there is a sufficiently compelling justification for building homes on land where the DP precludes such development, what must surely be much more relevant is the degree of contribution that the appeal scheme would make to addressing the problem and reducing the shortfall, rather than the extent of the shortfall itself. MW did not accept this in cross examination but it must be the case that the greater the degree of contribution to reducing the shortfall, the greater the weight. Otherwise, the positive weight given to a scheme to build 10 houses would be the same as 100 houses or 1000 houses, which cannot be correct.

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<sup>40</sup> Addendum to the Statement of Common Ground, 9 June 2014

247. Although the Framework urges every effort to boost significantly the supply of housing, that should not be achieved at any cost, and not at the cost of a fundamental breach of the DP.
248. SCC's work on its LP depends upon wider GM work and cannot move at any faster pace than it already is. It called for sites last year and consulted upon the results this year; meanwhile there are planning permissions for some 13,000 homes, nearly all (apart from some 800) on brownfield sites<sup>41</sup>. The recent speech by the Chancellor [D C9] suggests that the government recognises the importance of prioritising the use of brownfield land. The decision to withdraw the CS allows SCC, local communities and other stakeholders to fully consider the different approaches that could be taken in the light of the significant change in strategy that would be required to address the CS Inspector's concerns [SW rebuttal 2.9]. It is anticipated that the LP will be submitted in 2016, with adoption expected in 2017 [MD i/q].
249. If one looks at the appeal proposals in the context of the number of homes required over the 5 year period, the contribution that the appeal scheme would make is very modest. The Appellants anticipate that they would complete some 150 homes in the 5 year period until 31/3/2018 [MC Paras 1.2 and 4.3.2], which is equivalent to some 3 weeks of the required supply of housing land. The 150 amounts to some 1% of the housing land requirement (or 2% of the shortfall).
250. The Appellants rely upon the decision of the Secretary of State in the Burgess Farm appeal<sup>13</sup> in which a contribution of 175 homes in the 5 year period in question was given significant weight [MW App 10 Para 16]. The circumstances of the two cases could not be more different. For example in the Burgess Farm appeal, SCC played no part in the inquiry and the housing development was regarded as sustainable development (Paras 27-29).
251. Similar points are made about the affordable housing component of the appeal scheme. The shortfall is a large one (some 1,019 dpa) [SW 6.3.4] amounting to some 5,095 dwellings in the 5 year period. However, the contribution that the appeal scheme would make, at 20% and thus 30 in the 5 years, is miniscule (0.6% of the shortfall). Furthermore, the other 90 affordable homes, which would come later on, would be less than 2% of the need, namely a very modest contribution.
252. With regard to aspirational homes (in essence, bigger more expensive houses) over 40% (240) [MC 5.1.4] of the scheme would be such housing but there is no quantification of the extent of the need for aspirational housing in Salford and so one cannot work out the extent of the problem and as a result, nor can we work out the degree to which the appeal scheme would address it. It is likely however that the appeal scheme would do little to resolve the issue. The need for aspirational housing cannot be any greater than the need for housing generally, as aspirational housing is a sub-set of that necessarily larger figure. If one assumes that the aspirational housing (240) in the appeal scheme would come forward at the same pace as the scheme overall (i.e. ¼ in this 5 year

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<sup>41</sup> Email dated 16/6/14 from Mr Doherty to Cllr Garrido as at 31/3/13 there were 13,107 dwellings with planning permission of which 28% were houses and 72% apartments; 94% brownfield and 6% greenfield [D P30]

period) then only some 60 aspirational homes would be completed in the 5 year period in question.

253. When considering these aspects of the case it should also be borne in mind that of the 1600 homes envisaged each year, during the discussions at the Examination into the CS, as potentially being required to be built on green fields in Salford West, some 1000 were in the Greenway, of which the appeal scheme for 600 homes is 60% (of the Greenway figure) and circa 40% (of the green fields figure). It must be the case that if the shortfall in housing land supply is concluded in the case of this appeal to be sufficiently compelling to override the clear breach of SUDP Policy EN 2, a precedent would be set for what would be left of the Greenway. SCC withdrew its prematurity reason for refusal (its new LP is at too early a stage of preparation) and does not seek to revive it now, but the precedent point is obvious.

254. In conclusion, SUDP Policy EN 2 tells us that 600 homes should not be built in the Worsley Greenway. Contributing to lessening the shortfall in housing land supply is not a sufficiently compelling justification to set aside the protection given by the plan to the Greenway. SCC acknowledges the shortfall and appreciates the importance of building homes. But to put things in context, the harm to the Greenway would be "irrevocable" and "so great" in extent whereas the contribution towards housing land supply would be "relatively insignificant." The irrevocable (irreversible) harm to the Greenway means that once these green fields are built upon, they would be lost forever. SCC urges the conclusion that what would be gained does not justify what would be lost.

### **The Case for Residents Against Inappropriate Development**

255. RAID opposes the development proposed by this application because it will have an irrevocable, detrimental effect on the residents of this area and the wider community, which benefits from the open space and informal recreation that it provides.

256. RAID is supported not only by the local communities directly affected by the proposal but by people from across Salford. Their concerns are evidenced by the well-attended public meetings (over 1,000 attending each of three meetings) and their presence in large numbers at each of the sessions of this Inquiry. The extensive public representations that were made during the inquiry process, as well as previously, have clearly demonstrated that this site is a recreational resource valued widely across Salford as a whole and not just by the local residents.

257. RAID's core reasons for objecting to this appeal are traffic, transport, changes to the original marina plans, use of footpaths, the educational impact and the overriding need to protect the Greenway as an open break within the urban area and uphold saved SUDP Policy EN 2. It is also concerned about the loss of recreational and community assets, the loss of amenity and the resultant impact on the quality of life, as well as flooding, pollution, wildlife and the sustainability of the development .

#### *Harm to the Greenway*

258. This development would result in a loss to the Greenway's openness as well as its fragmentation. There is nowhere else in Worsley or indeed within Salford,



which offers the experience of the open rural views that are provided from the various footpaths that cut across and surround the appeal sites.

259. As part of the proposed development, the Appellants have included many so-called mitigation measures in terms of open space, recreation, biodiversity, highway improvements and transport links to compensate for this loss. RAID is of the opinion that no mitigation measure can truly make up for the loss of this priceless piece of rural beauty within an inner city.
260. The Appellants pointed to the recent new development at Cambourne, as an example of an established landscape area, similar to that which is proposed in this development. It is not directly comparable to this site, due to the size of the overall development, and more importantly, the fact that the Cambourne site did not represent the rare rural break in the urban form that this appeal site provides.

#### *Recreation*

261. The proposed development is in conflict with both SUDP Policy R 4 (CD 09a) and the Framework at Paras 73-5 because a large proportion of the site, which is a part of the local green infrastructure, would become developed and recreation land would be lost.
262. This would not be offset by the proposed provision at Aviary Field. The proposed Aviary Field biodiversity provision and the playing field area is an unsustainable replacement for the losses at Broadoak, because of its location in terms of its accessibility and its close proximity to the M60 motorway. The various routes to Aviary Field were explored on foot on the site visit. Realistically many of the residents within the new development will not use the Field due to the length (more than 1km) and undulating nature of the footpath routes. This replacement land does not accord with the provisions of the Framework at Para 74, which requires that *"the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location"*.
263. D B15 (list of existing sports/recreational facilities and plan) shows other playing fields that are located in close proximity of the M60. However, these are historic legacies and a sustainable future should not involve placing playing fields in a location immediately abutting a major motorway, with its ramifications for air pollution and noise and the consequent effects of these on the health of the users of the facilities.
264. PC demonstrated the effect that the proposed buildings would have on this landscape. The Appellants' mitigation scheme will not make up for the loss of a large part of this open rural land within an otherwise urban area and the benefits that it provides. Walking along a manicured path or road with houses to either side is no replacement for the existing footpaths and rural views.
265. The photographs [Noel Gaskell (NG) App 3] together with those submitted by RAID previously [D R12] clearly show the sites' sylvan nature, which was also experienced on the site visit. There is also clear visibility over Broadoak South from many public positions, such as the WLL, the canal towpath or the internal footpaths. The supposed objective landscape assessment by the Appellants cannot truly represent its value to the local population.

266. As well as creating a break in the urban form between the communities of Hazlehurst and Worsley, the appeal site is a key part of an important recreational area. It also provides the setting for the surrounding area as a whole including the Bridgewater Canal, which is of national heritage importance.
267. The Appellants have played down the amenity value of the appeal sites. In the eyes of local residents, it is an area of irreplaceable beauty in the context of its urban surrounding. It may not be perfect in the context of landscape evaluation but it is priceless to local residents as an amenity and recreational resource. Furthermore, it plays a strategic role within Salford as a whole, being a rural break in the urban form, a point clearly demonstrated in SCC's case.
268. The Framework at Para 77 outlines when it is appropriate to designate a local green space. At bullet point 2 it states "*where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife*". The open land to the south of Worsley Road holds much significance for the people of Salford because of the tranquil enjoyment of open land that can be experienced by walking along the footpaths that cross it.

#### *Housing*

269. It is important that housing is delivered in areas where it is needed. However, there are many houses within Worsley and Boothstown that have been for sale for long periods of time. This would suggest that the market in this particular area is currently saturated.
270. Jillian Collinson (JC) demonstrated that there is more potential for the use of brownfield land in Salford than is portrayed by the Appellants in their evidence and within the SoCG. There are currently extant planning permissions with the capacity to accommodate over 13,000 dwellings within Salford. All but 800 are on brownfield sites [D P30]. The land covered by these planning permissions is more than sufficient to meet the 5 year requirement and should be used before the development of greenfield land is considered. Whilst the Inquiry has been sitting both the Chancellor<sup>41</sup> and the Secretary of State<sup>42</sup> have promoted the use of brownfield land in order to protect our "*green and pleasant land*".

#### *Highways*

271. RAID and others are concerned that the severe traffic problems that are currently prevalent in the area will be exacerbated by the proposal; especially on Worsley Road where this development's vehicular accesses are proposed. The Framework states at Para 32 that an application, in terms of highways, should not be refused unless the impact caused is severe. The highway problems in this area are already severe and this development, despite its mitigation measures, will make the situation worse.
272. The surveys compiled and presented by James Broome (JB App 1 & 2) give a realistic view of the traffic situation on all roads around the area leading to junction 13 of the M60. Claims that the additional lanes on the roundabouts or the minor flares proposed on the approach roads will in any way mitigate the

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<sup>42</sup> Eric Pickles, Daily Telegraph article 13th June 2014 (D R9)

existing or potential future problems are unfounded in reality. This is because there remains only one traffic lane onto the south-bound carriageway of the M60 motorway at Junction 13, and there is no proposal to increase this capacity. The M60 approach is already at capacity during the morning peak and is the cause of the severe traffic problems experienced on a daily basis in the area. The restricted widths at the canal bridges on Barton Road and Worsley Road also contribute to the congestion but there are no proposals to improve capacity at these pinch points.

273. RAID's evidence regarding traffic queues at the junction of Worsley Road and the East Lancashire Road [JB and JB App 5] prove that there would be an unacceptable increase in queue lengths and congestion. RAID's evidence on all of these matters casts considerable doubt on the data provided by the Appellants and SCC in relation to queue lengths. The situation will inevitably get worse as a result of the traffic generated by this proposed development.

#### *Shuttle Bus*

274. RAID questions the viability of the shuttle bus that is proposed as a part of the development proposals. Andrew Cheetham (AC and AC App 1 & 2) has demonstrated that this shuttle bus service will not deliver the sustainable form of transport that the Appellants claim. The shuttle bus is reliant on the LSM bus-way, which will not serve the majority of people within the proposed housing development. Little account has been taken of residents needing to travel to the west and south or the fact that according to the 2001 Census, the majority of people locally needed to use private transport to take them much further afield and in a different direction to that provided by the shuttle bus or LSM bus-way.
275. No evidence was presented by the Appellants to guarantee that the shuttle bus service would continue after the initial five year funding by the developers expires. The presumption is that there will be sufficient patronage because of the link up with the LSM bus-way. However, the LSM is not in operation yet and so it is impossible to say what the patronage might be. Existing bus services in the area do not attract a subsidy and it is unlikely that there would be funding from TfGM to continue the shuttle bus service after the initial period. No business plan has been prepared for the service, further increasing the uncertainty of its viability. This reinforces the fact that insufficient consideration had been given by the Appellants with regard to transport sustainability.

#### *Marina*

276. The evidence of Anne Broomhead [AB and AB 1 & 2], who is a member of the steering group that has successfully bid for Heritage Lottery support to improve the Bridgewater Canal, points out that there is no need for enabling development to cross subsidise the funding of a marina<sup>43</sup>. The British Waterways report suggests that new marinas can be profitable, particularly if they have 250 or more berths, as originally proposed in the BCCM [CD27] for Broadoak. The trading figures from the Bridgewater Canal Company, and discussed by the steering group, indicated that sufficient revenue to fund a marina development with 250 berths was available.

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<sup>43</sup> Inland Marina Investment Guide British Waterways 2008 [AB App 2 S 3]

277. The marina with housing would be contrary to SUDP Policy EN 2 and the aims of the Framework at Para 129 because it would reduce the Greenway's openness, fragmenting it as a whole detrimentally, as well as affecting the setting of a heritage asset (Bridgewater Canal). AB confirmed that from her knowledge as a member of the steering group, considering the marina development, it was never intended to cross subsidise its construction by housing until the appeal proposal came forward because it was a viable economic proposition in its own right [AB ex/c].
278. The original access to the marina was to be from Monton, as this gave marina users better access to local facilities in Monton such as shops and restaurants. Access is now proposed via the appeal development but such a circuitous route, via Worsley Road, would not benefit marina users.

#### *Education*

279. The provision of 600 dwellings will bring with it a strain on the already over stretched local primary education provision. JC presented a strong case outlining the current provision, and the shortfall of primary school places in the area [JC & JC 1&2]. She also demonstrated that the education contribution provided by the Appellants as part of the S106 agreement is not adequate in terms of delivering the primary places required in the area, despite this being the amount stipulated by the relevant policy.
280. The location of the proposed new school is also inappropriate. The only alternative access to the school from the appeal site, apart from the bridge over the Canal, would be via Worsley Road and Barton Road. Because parents tend to drop off their children on their way to work, this route is likely to be the most used thereby adding significantly to traffic congestion problems.

#### *Pollution*

281. The Framework at Para 120 says that new development should be appropriate to its location and that the cumulative effects of pollution on health and the potential sensitivity of the area to adverse effects from pollution should be taken into account. There are high levels of atmospheric pollution in this area as evidenced by Karen Garrido (KG). Whilst she was unable to produce scientific evidence, she pointed to her personal experience as an asthma sufferer and the effects pollution can have on the health of local people [KG 3.4-3.6]. She also referred to the recent decision by the Highways Agency not to proceed with widening the M60, as it passes through Worsley, because of the detrimental effect on air quality and the health of the local population [KG Para 3.7].

#### *Noise*

282. KG raised the issue of noise levels, pointing out that those opening windows in dwellings close to the appeal sites or sitting out in their gardens no longer had a pleasant experience because of the constant traffic noise from the surrounding major roads [KG Para 3.9].
283. The value of the appeal site as a part of the Greenway is of great importance to local residents. Its value to them is far more important than the need for 600 houses in the bigger picture. It is important to conserve it as an asset for future generations.

## Organisations that were represented at the Inquiry

### *Worsley Village Community Association [D P3]*

284. The existing green space is used by residents from all over Salford as breathing and recreational space. The Greenway is a green lung that enables residents from the areas that surround it to walk away from roads and houses. There is correlation between the amount of population and green-space per head of population and the health of residents [D P36/4]. Those densely populated areas with the smallest amounts of green space have populations who are least active and most unhealthy. The health of Salford's population is comparatively poor and the removal of this green-space will not aid efforts to improve it.
285. Broadoak North and South act as an open break separating the communities of Hazlehurst and Worsley. Were they to be developed as proposed, then the gap would be removed and the distinct communities either side would coalesce into a single conurbation.
286. There will be additional impact on the area from the extra vehicular traffic generated and the proposed M60 junction improvements will make it more difficult for children to cross the widened approach roads on their way to and from school.
287. New residential properties should be built on brownfield sites of which there are many in Salford.

### *Friends of Rowe Green [D P4]*

288. The Worsley Greenway is a breathing space within an urban environment, within which people can take exercise. Paved footpaths through a housing estate would be no substitute.
289. Current educational and health infrastructure within the area are already stretched and would not have the capacity to absorb the requirements of the people generated by the implementation of this proposal. The area is already heavily congested with traffic and bus services are limited.
290. The local air quality is poor and the extra traffic will increase the already high levels of pollution. New development in Salford should occur on the many brownfield sites, leaving the remaining green-space within the urban area for the use of future generations. The release of land at Broadoak for development would set a precedent for the release of other sites within the Greenway.

### *Moorside South Residents Association [D P9]*

291. There are already inadequate recreational facilities for young people in the area. This has led to anti-social behaviour, which would be compounded by the introduction of 600 new dwellings.
292. The proposal would increase traffic congestion on Worsley Road as well as air pollution. It would also put increased pressure on local schools and educational facilities. They do not have the capacity to absorb the additional population.

### *Greenway [D P10]*

293. Worsley Greenway is of high importance to the people of Salford because it provides green relief within the urban area and limits urban sprawl by clearly separating the communities either side of it. The proposal would obliterate the part of the Greenway that it affects.
294. The Greenway, through its natural environment absorbs CO<sup>2</sup> from the local atmosphere. Because of the proximity of the M60 and other major roads in the area there are high levels of atmospheric pollution in West Salford. The appeal proposal would reduce the capacity of the green space to absorb CO<sup>2</sup>. At the same time, the traffic that it would generate would add to the levels of pollution in the area, causing air quality levels to fall further.

### *Boothstown Residents Association [Ds P2&23]*

295. The footpaths through this area are widely used for walking and running by the residents of the extensive urban areas that surround it. Its development would represent a significant loss for these people who visit and use it to escape from the increasingly urbanised nature of Salford.
296. It emerged during the examination into the CS (2012) that there were about 10,000 dwellings within Salford with planning permission but not built. Despite that Salford was not meeting its housing targets. The CS Inspector, having heard all of the representations, remarked that more use should be made of brownfield land before committing greenfield land for development. Subsequently the number of dwellings with planning permission has increased to over 13,000 but the required numbers are still not being built. However, Salford Council does not build houses, the development industry does. Although there are large numbers of persons supposedly wishing to purchase homes, they are prevented from doing so by a combination of financial constraints. Consequently, developers do not sell completed houses and the required numbers of houses are not built. There is therefore no proven need for the release of this greenfield site for housing development.
297. The traffic from the Broadoak Park development, in combination with other approved developments within the area, will lead to increased congestion and queuing. The Salford Air Quality Management Area [D P29] has been established because of the high levels of atmospheric pollution in the area, with the objective of improving the position. It includes most of the area between the Broadoak appeal sites and the M60 and extends either side of Worsley Road across them. The already high levels of atmospheric pollution will be compounded by this development

## **Interested Persons who appeared at the Inquiry**

### *Barbara Keeley MP [D P36]*

298. Barbara Keeley MP pointed out that the proposal would result in the loss of open space that is important for the health and wellbeing of and highly valued by the local communities that live around it. The proposal would both fragment and detract from the openness and continuity of the Greenway, harming its value as an amenity and as an open resource for recreation. The Greenway provides open

space in an area devoid of traditional parks and with limited amounts of publicly accessible land. It also functions as a wildlife corridor<sup>44</sup>.

299. Whilst more homes are needed in Salford, particularly affordable ones, there are numerous brownfield sites that should be developed first. In March 2013 there was land with planning permission for over 13,000 dwellings within Salford. Peel Holdings, one of the Appellants, has planning permission for five sites totalling 3,025 of those dwellings<sup>45</sup>. Both the Chancellor<sup>41</sup> and the Communities Secretary<sup>42</sup> have recently advocated an initiative to help local authorities release more brownfield land for development.
300. This development would result in an additional 1800 extra vehicles per day on the local roads, causing increased congestion and pollution whereas what Salford really needs are affordable homes close to accessible public transport.
301. The Framework says at Para 120 that "*The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area ..... to adverse effects from pollution, should be taken into account*" in planning decisions. Reported respiratory illness in Salford is now a real issue because of the atmospheric pollution from road traffic, which is noticeably higher than in most other areas<sup>46</sup>. The second highest levels of Nitrogen Dioxide in Greater Manchester are found at M60 Junction 13, which is just to the west of the appeal sites. The permitted levels of the gas are now exceeded on 260 days each year.
302. In the context of the high levels of mortality in Salford due to respiratory problems,<sup>47</sup> the likely increase in pollution from traffic as a result of the development, which would be harmful to local people, should be given weight. The HA's decision to shelve its plans for all-lane running between junctions 8 and 18 on the M60 motorway because of the existing levels of atmospheric pollution caused by road traffic and the resultant poor air quality, is further proof of the seriousness of pollution from traffic in this area.
303. In accordance with EU Environmental Noise Regulations, strategic noise maps were produced<sup>48</sup>. They show that there are already high levels of noise on the local roads, particularly on the major roads around the proposed sites and including Worsley Road (A572), the East Lancashire Road (A580) and the M60. Additional traffic from the proposed development would add to the already high noise levels in Worsley and the surrounding area.
304. Worsley is poorly served by public transport, resulting in a disproportionate number of its residents using the private car for journeys (D P39/2 & 3). The rail services from Walkden and Swinton to Manchester are already used to capacity at peak periods. Development here is less likely to result in a modal shift from the car to public transport than would be the case in the parts of Salford with

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<sup>44</sup> Greater Manchester Ecology Unit (GMEU) consultation [CD 3Q & NPPG S4]

<sup>45</sup> Freedom of Information request from Salford City Council [D P30]

<sup>46</sup> Greater Manchester Emissions Inventory 2010 recorded that motorway emissions in Salford were the worst in Greater Manchester and double those found in neighbouring districts.

<sup>47</sup> The mortality rate in Salford attributable to pollution is 6% compared to an England average of 5.6%

<sup>48</sup> England : Strategic Noise Maps 2007

better public transport provision and where much of the brownfield land is located.

305. Salford is an urban city with limited public open spaces. The green spurs on the outskirts of the city are consequently precious to local people and the appeal sites are a part of an area that is extensively used for walking and running by people from a wide area. The use of the sites for this purpose is important in a Salford context because of the prevalent issues around inactivity. The City ranks 148<sup>th</sup> out of 150 local authorities in terms of inactivity, 39% of adults being classed as inactive. This is estimated to cause 382 premature deaths per 100,000 persons per annum in Salford, with significant costs to the local health service. The loss of the open land at Broadoak, with its network of footpaths, would discourage people from taking exercise and probably lead to a worsening of the situation.
306. Green-space has been found to have long term positive benefits on life satisfaction and is good for people's well-being. A survey carried out by Exeter University<sup>49</sup> found that living in an urban area with green spaces has a long-lasting positive impact on people's mental well-being. Living in urban areas close to green-space leads to lower mental distress and higher personal well-being. The cumulative benefit at the community level highlights the importance of policies to protect urban green-space from development for the well-being of the community.

*Other Interested Persons who appeared at the Inquiry*

307. Eighteen other members of the public addressed the Inquiry<sup>50</sup>. These included four local Councillors [Documents P7, 13 & 20] from various parts of Salford who together with the four Councillors who gave evidence on behalf of RAID represented nearly 50,000 people. They all added voice to the importance of the green-wedge in terms of the recreation, health and well-being of the communities that they represent, stressing the importance of such green space within an urban area.
308. Four medical doctors attended to express their concerns about the loss of the area to development and the ramifications of this for the health of local people [D P25, 33, 34 & 35]. Their evidence supported the health concerns, raised by Barbara Keeley MP, in the context of increased atmospheric pollution from the additional traffic that the development would generate and the harm to public health caused by this and the reduction in available green space in which the local population could exercise. These same issues were also raised by a number of residents from different parts of Salford.
309. They stressed the poor performance of Salford in terms of national and regional statistics on health inequalities. Research evidence was submitted to

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<sup>49</sup> Would you be happier living in a greener urban area, European Centre for Environment and Human Health, University of Exeter 2012 [D P36/4]

<sup>50</sup> All of these participants are listed in the appearances in the order in which they spoke. As well as from local organisations, Councillors and medical practitioners (referred to above), written statements from other participants are to be found at Documents P1, 5, 6, 8, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 26, 27, 28, 33, 34 and 35. Other information from third parties is contained at Documents P4, 24, 29, 30, 31, 32, 35, 37 and 38



demonstrate the important effect green space has on health (both mental and physical<sup>51,52</sup>) and well-being and the areal differentiation. It suggests that populations that are exposed to the greenest environments also have the lowest levels of health inequality related to income deprivation<sup>53</sup>. It also substantiated the claim that green space is more than a luxury and should therefore be allocated a more central position in spatial planning<sup>54</sup>.

310. Robert Sides [D P15], an ornithologist, spoke about the 60 species of birds he has recorded over the last ten years on Broadoak South. He challenged the information contained within the Environmental Statement produced by the Appellants (ES Para 2.1.6), suggesting that the sites' existing value for wild life had been played down. He gave evidence as to the presence of species at Dukes' Meadow (southern part of Broadoak South) during the past year that the Appellants suggested were not present. He also referred to the presence of amphibians at Broadoak South and the wildlife value of the fishing pond and its environs.
311. Other third parties from different parts of Salford stressed the importance of a continuous green space between Monton (Eccles) and Beesley Green (Walkden) to enable the population surrounding the area to take long walks along public footpaths that are in a non-urban environment. The lack of playing fields in the area and the inappropriate location of Aviary Field for such provision were also stressed. The convenience of the Worsley Greenway as a location for casual walking in comparison to the areas of sub-regional significance on the edge of Salford (Chat Moss and Irwell Valley) and further away from the main populated areas was also raised. The development would split the Greenway into two, totally changing the nature of the resource and the ability of the local population to experience its recreational opportunities. The protection given to existing open spaces by the Framework at Para 74 was also stressed.
312. Flooding, pollution and the effect of traffic on an already severely congested and inadequate local road network were raised by many people, as were the over stretched health facilities, the absence of capacity in the primary education sector and the lack of parks and formal open spaces across Salford. The comparatively poor level of public transport provision in the vicinity of the appeal site was also raised by a number of interested persons.
313. Other witnesses stressed the availability of brownfield land with planning permission that wasn't being developed and ought to be before greenfield land was released. The point that the successful development of a number of these would improve the quality of the environment for the existing residents of the areas, in which the sites are located, was also made, as well as their better accessibility and sustainability in comparison with the appeal sites. It was also pointed out that the construction of 150 dwellings as a contribution to the five year supply was not significant in the context of the alleged shortfall.

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<sup>51</sup> Longitudinal Effects on Mental Health of Moving to Greener and Less Green Urban Areas, Ian Alcock and others, University of Exeter, 2013 [D P35/2]

<sup>52</sup> Green Space and Stress, Jenny J Roe and others Heriot-Watt University, 2013 [D P35/3]

<sup>53</sup> Health inequalities and determinants in the physical urban environment, Marcus Grant and others, University of West of England, 2012 [D P35/4]

<sup>54</sup> Green space, urbanity and health: how strong is the relation? Jolanda Maas and others, Netherlands Institute for Health Services Research, 2006 [D P35/5]

314. A number of participants also made the point that it was wrong to punish the local communities for the mistakes that SCC had made in its Development Planning.

### **Written Representations from interested persons**

315. A number of letters were received both before and during the Inquiry from local residents and other people with an interest in the appeal. The vast majority of them object to the proposals, for many of the same reasons that are summarised under the appearances by Interested Persons in the preceding section or were raised by RAID. Some of the correspondents brought up the issue of wildlife, particularly in the context of the fishing pond at Broadoak South, which is used by a fishing club, and the surrounding ecological area. The Manchester and Salford Ramblers pointed out that the network of footpaths across Broadoak south were regularly used and enjoyed by its members. It objected to the implied closure and diversion of the public footpaths. Letters of support were received from local and national house builders, as well as from persons seeking affordable accommodation and first time buyers.

### **Conditions and Obligations**

316. A list of suggested conditions was first discussed at an informal session involving all of the three main parties. These conditions were subsequently revised and then discussed formally at the Inquiry at a round table session. The resultant document [D B23] represents a very high level of agreement between the Appellants, SCC and RAID as to the conditions which should be imposed in the event that planning permission is granted. The Appellants were also mindful that I and/or the SoS may have reservations about the location of the playing fields at Aviary Field. Condition 17 was suggested to overcome this concern if that was the case. I have considered the suggested conditions in the context of the tests in the NPPG and consider them all (including suggested condition 17) to be compliant.
317. Conditions 1-6 are necessary to ensure that the development will not start until all reserved matters are approved and that the development should be carried out in accordance with the principles and philosophy set in the plans and related documents that accompanied the application. Condition 7 relates to the submission of a phasing scheme and is necessary to ensure that all elements of the scheme are carried out in a timely manner. Conditions 8-9 relate to the implementation of a footbridge across the Bridgewater Canal, which is necessary to provide pedestrian access to the new school proposed at Alder Brook. Conditions 10-14 relate to the form and nature of the development and are necessary to ensure that the development is of an appropriate density and includes an appropriate mix of dwellings that are sustainably constructed. Conditions 15 -17 relate to open space and playing field provision and are necessary to ensure a satisfactory development that meets the requirements of future residents and the local community in the context of existing facilities that are to be removed or compromised.
318. Conditions 18-21 relate to landscaping and tree measures. They are necessary in the interests of visual amenity. Conditions 22-24 relate to the implementation of the site access, off-site highway works and a travel plan that are necessary to make the proposal acceptable in the context of transportation. Conditions 25-27 relate to drainage matters and are necessary to ensure that the

site can be properly drained without flooding and achieves a positive impact on the natural environment. Conditions 28-30 concern construction management and site investigation measures and are necessary to ensure a satisfactory construction and development process. Conditions 31-33 concern noise measures and are necessary to create an acceptable living environment at dwellings constructed in the vicinity of Worsley Road. Condition 34 is necessary to ensure that a programme of archaeological works is implemented before development commences. There is evidence of archaeological remains on the site. Condition 35 contains training measures, which would help to improve the skills of the local labour force.

319. A signed Unilateral Undertaking made pursuant to Section 106 of the Town and Country Planning Act 1990 was submitted to the Inquiry by the Appellants<sup>55</sup>. This was discussed during the course of the Inquiry. In this document the Appellants agree that if planning permission is granted, 20% of the total number of approved dwellings would be provided as Affordable Housing Units. They also agree to complete the marina prior to the occupation of 50% of the Market Housing Units on the site and to make financial contributions towards the provision of improvements to local education facilities in a phased manner and to green infrastructure. A shuttle bus service between the site and Swinton Town Centre would be provided for a period of five years.
320. I discuss the pertinent details of the matters proposed in the Undertaking and their appropriateness in the body of my conclusions. The Deed includes a clause that says that the covenants and obligations shall not apply or be enforceable, if the Secretary of State determines that any obligation fails to meet the requirements of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. In my opinion, they all meet the 3 tests of Regulation 122 of the CIL Regulations 2010 and the criteria in Para 204 of the NPPF.

### **Inspector's Conclusions**

321. The following conclusions are based on my report of the oral and written representations presented to the Inquiry and on my inspection of the site, its surroundings and my visit to Cambourne. The numbers in square brackets [N] refer to Paragraphs in the preceding sections of the report, from which these conclusions are drawn or references to other evidence before the Inquiry.
322. Following its letter of 2 May 2014, and subject to the planning obligations and agreed conditions, SCC is only pursuing the first reason for refusal, which relates to the proposal's noncompliance with SUDP Policy EN 2 [8]. The Appellants' agree that the proposal is contrary to this policy. In these circumstances it was agreed at the Inquiry that the main issue is :

Whether the proposal is in accordance with the DP

and if not

do material considerations indicate that planning permission should nevertheless be granted? [69, 175]

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<sup>55</sup> Document B19

323. Whilst agreeing that the proposal is contrary to SUDP Policy EN 2, the Appellants consider, for various reasons that minimal weight should be given to this policy. It is agreed that SCC does not have a five year supply of housing land when considered against the annual housing requirement (1,600dpa) found to be necessary by the Inspector who conducted the aborted Hearings into the CS. The Appellants are consequently of the view that the housing policies in the Framework are engaged in the context of this Appeal. However, the courts have ruled that the presumption in favour of sustainable development in Para 14 of the Framework should only be engaged if the development is found to be sustainable development. [75, 88-98, 210, 243]
324. The Appellants also consider the benefits to the locality, following the provision of the additional housing, a marina, a footbridge over the Bridgewater Canal, a shuttle bus service to Swinton, flood prevention measures, sports provision, highway improvements, open space and landscaping within the proposed development to be such that they weigh in favour of its approval. [156-173]
325. RAID and others disagree with the housing land conclusions agreed between the Appellants and SCC. They also consider that the implementation of the proposal would impact unfavourably on the local highway network, flooding, health, recreation, open space, footpaths, education and wildlife. [257]
326. In such circumstances the following matters need to be considered
- The degree of non-compliance with SUDP Policy EN 2;
  - The harm to the Worsley Greenway and any other harm attributable to the proposal, together with the weight to be given to it;
  - Whether the proposal is sustainable development within the overall meaning of Paras 18-219 of the Framework;
  - Whether Salford has an objectively assessed housing need and the weight to be given to it;
  - The weight to be given to the alleged benefits.

### **Policy EN 2**

327. Policy EN 2 seeks to protect the Worsley Greenway from development that would fragment or detract from its openness and continuity or would cause unacceptable harm to its character or value as an amenity, wildlife, agricultural or open recreational resource. Its reasoned justification (SUDP 12.7) points out that it is a strategically important GW covering some 195 hectares that is of great value to the city, providing amongst other things amenity open space, recreational land and facilities, public access, strategic recreation routes and relief within an urban area. These clearly relate to its roles and functions. It concludes that its protection and enhancement in its entirety is of great strategic importance. [24, 176-183]
328. The Greenway is undeveloped and consists of various connected parcels of land in open uses such as a country park, a golf course, woodland, and in the case of the appeal sites, agricultural fields used for grazing. It is characterised by its openness (i.e. not built upon) and stretches from the open countryside to

the west of the M60 into the urban area for over 3 km. It separates the communities that make up the former townships of Worsley and Eccles on the one hand and Swinton and Walkden on the other. Over the years, and with continuous expansion through development, these areas have become suburbs of Salford. [182]

329. It also contains a network of footpaths, including that on the former WLL that connect with others that lead further into the more central parts of Salford, as well as into the open countryside within the GB. The evidence from the written representations and the presentations to the Inquiry, in addition to the observations that I made on my site visits, suggests that this is a widely used and valued resource for the people of Salford. The conclusion in SUDP Para 12.7 that the Worsley Greenway is of great strategic and local importance is not an understatement. [24, 199, 305, 307]

330. It is agreed that the proposal would detract from the Greenway's openness. The construction of 600 dwellings on land that is currently not built upon could not do otherwise. At the present time there is a continuous belt of open land that stretches from Roe Green in the north-west to Monton in the south-east. One of its narrowest parts is at Worsley Road where the two appeal sites that would be developed, front that road. The appeal proposal would build across this narrow break. It does not even provide a continuous footpath within a landscaped corridor to link the two parts of the Greenway that would consequently be physically and visually severed. In these circumstances the proposal could do little else other than fragment and detract from the openness and continuity of the Greenway. [68, 108, 177-182]

331. I note the Appellants' point about non-vehicular access along the WLL being maintained but the Greenway is much more than a set of footpaths. It is an open area, which has a genuine rural character because of its extent and the nature of its uses. Additionally, it can be experienced by the local population because there is a network of well used public footpaths that cross it. Unfortunately the WLL is in a deep cutting as it passes Broadoak North and the northern part of Broadoak South so that the sense of openness provided by the Greenway cannot be experienced from here. Furthermore, although there is no public right of way, extending north-south across Broadoak North, the openness of this field and the northern part of Broadoak South is clearly visible between the trees and hedges by pedestrians walking along Worsley Road and Greenleach Lane, between PRowWs W54 and W71. This can be experienced even in summer but especially in winter when the trees are not in leaf. Contrary to the Appellant's evidence, public footpath PRow W54 also crosses the northern tip of this site. [15, 102, 106, 182, 264-267]

332. It is agreed that because of its size and the distance to the home farm, the loss of 5.4 hectares of Grades 2 and 3a land from agricultural use would not, in itself, detract from the Greenway. Nevertheless I agree with SCC's revised position that the proposal would cause unacceptable harm to the Greenway's character, its value as an amenity and its function as an open recreation resource, the importance of which is enhanced by its proximity to the built up area. [59, 97, 183]

333. The landscape within the part of the Greenway where the appeal sites are located is of no outstanding merit but it is undoubtedly a pleasant area in which

to walk and relax. It consists of pastureland that slopes in a southerly direction and is punctuated by groups of trees. With the unfortunate exceptions of a small part of the eastern boundary, adjacent to where the built environment of Hazelhurst (Beech Drive) abuts Broadoak South and to a larger extent behind Drywood Avenue (Worsley) along this site's western boundary, Broadoak South is heavily screened from the adjacent urban areas by trees and woodland. Consequently, despite its proximity, there is a real sense of being in a different place and away from the adjacent noise and humdrum of urban Salford when walking the footpaths that criss-cross this site. [11-16]

334. A considerable amount of the documentation and Inquiry time is/was devoted to the discussion of landscaping matters. The Appellants undertook a LVIA and concluded that the value of the landscape character being affected was medium to low and that the appeal site's susceptibility to change was high to medium, giving an overall medium level of sensitivity. SCC fundamentally disagreed with this assessment and with the Appellants' treatment of the Greenway as a landscape designation. [99-102, 110, 194-201]
335. The landscape character of the open fields, largely bounded by trees and woodland, is clearly not the same as that which would result from planting within a large housing estate. That is not to say that the quality of the landscaping within the housing estate would not be good but it would be totally different from the present experience. Any assessment would be the equivalent of comparing chalk with cheese and I am consequently not convinced of the value of attempting to do so. Having said that I find it difficult to accept that the users of the footpaths could be other than highly sensitive to the changes to the surroundings of the footpaths in the manner proposed. The building of 600 houses on what are currently open fields could not result in other than a high magnitude of change, whatever the proposed layout or the degree of accompanying landscaping. Consequently I agree with SCC that the significance of the effects would be major adverse. However, unless the Greenway is a landscape designation or has in part been designated because of the outstanding quality of its landscape then little turns on this. [110, 200, 225-227]
336. The landscapes of the appeal sites are not of any exceptional quality and they do not warrant designation as such even at a local level. The word 'landscape' is not even mentioned in SUDP Policy EN 2 and apart from a reference to '*attractive landscapes*' within the Greenway, not in the supporting text either. There is therefore no evidence to suggest that the drafters of the policy designated it, even in part, for the quality of its landscape. It was also not designated as a protected wildlife site. As the reasoned justification clearly states, the Worsley Greenway is a strategically important 'GW' providing relief within an urban area. It is a spatial policy conceived to protect the openness of the area that it applies to because it is of great strategic and local importance. As the Greenway is not a landscape policy, it is not appropriate to set criteria against which development proposals could be judged in the context of Para 113 of the Framework. [88, 225-228]
337. The Appellants argue that the appeal sites do not meet the principal characteristics of GWs, quoting a government sponsored investigation into the purpose and role of GWs as their source. However, notwithstanding the fact that the findings of this independently prepared document have never been adopted by Government, the Greenway prevents the built up areas of the suburbs of

Swinton/Walkden and Eccles/Worsley from merging. The appeal proposal would be in direct contravention of this by physically merging Worsley and Alder Forest with Hazelhurst through the proposal's built development. With the exception of heritage, which is not a justification for the maintenance of the Greenway or for its original designation, I disagree with the Appellants' conclusions on the need to maintain the Greenway permanently open in the context of wider planning objectives. [111-112, 184, 198]

338. The appeal sites do make a contribution to the area's urban form through the screening effect of the trees around most of the perimeters of the sites and the distinctive belt of open land that penetrates the urban area and separates distinct communities. As I indicate below, although the Greenway is bisected by the M60 motorway it is adequately linked to the open countryside by three routes that are used by pedestrians and cyclists. It also provides a wildlife link between the wider countryside and inner Salford. Whilst the landscape value of the appeal sites has no outstanding merit, their open character has high amenity value and the vegetation provides a landscape setting for the adjacent urban areas. The informal recreational value of the appeal sites is high and very important to local residents, as well as to those from other parts of Salford. [112, 184]
339. The overall provision of green space within the urban part of Salford is poor and the provision of public open space, particularly that available for active sports participation, is particularly lacking, even in an outer suburb such as Worsley (the provision is less than 30% of the standard). This increases the importance of facilities that enable the local population to take exercise through walking, jogging and running and the footpaths on the appeal sites help to fulfil that role. [CD20 S3 & App A, 117, 199, 261, 264, 266, 288, 291, 295, 298, 305]
340. Whilst I note that the Appellants propose to maintain and extend the network of footpaths across the site and to facilitate further public access into Broadoak North, these would be footpaths through residential development, albeit some of them would be in landscaped corridors. Nevertheless the experience of anyone using them would be that of a journey through a housing estate and not beside or across open fields. [103, 107, 108, 268, 288, 311]
341. My visit to Cambourne suggests that it would be possible to develop parts of these sites, whilst retaining footpath routes with a satisfactory sense of openness through them. However that experience also suggests to me that for the most part, the proposed landscaped footpath routes, including the north-eastern part of that which follows the alignment of Sindsley Brook, would be too narrow to achieve a satisfactory perception of openness. Additionally, some of the footpaths in the proposal before the SoS have very minimal widths of landscaping associated with them and others none at all. Furthermore, the north-south visual links are totally lost as a result of the scheme. The so called second Greenway from the Station Copse to Dukes Drive Country Park is a narrow area with groups of existing trees adjacent to the WLL, which it would duplicate if it became a pedestrian route. [106, 260]
342. I note the Appellants' point about the poor condition of the footpaths and the absence of the bridges across Sindsley Brook. How or why they have been removed remains unclear but the fact that members of the public were clearly using the footpaths across Broadoak South, despite their condition and the physical obstacles preventing their use, suggests that if the bridges were

reinstated and the paths properly maintained, then they would be used by many more people. Their point about the absence of pedestrian links across the motorway, apart from the WLL, to link the appeal sites and the parts of the Greenway to their south-east with the open countryside to the west of the M60 is not correct. There are two underpasses under the motorway that are used by pedestrians within the Greenway in addition to that used by the WLL (see PR App p Fig RT5). [102, 111c]

343. Whilst the Bridgewater Canal towpath may eventually lead to the open countryside, if traversed in a westerly direction, it passes for a considerable distance between built developments before its underpass under the M60 leads to views over open fields (see map at 3.16 in CD 01k). A walk along the Greenway's footpaths to the open countryside is a totally different and far preferable experience.
344. I conclude that the appeal proposal would fragment and detract from the openness and continuity of the Worsley Greenway and would cause unacceptable harm to its character and value as an amenity and open recreation resource. Given the nature and circumstances of this proposal I give great weight to this harm, which must result in a fundamental breach of SUDP Policy EN 2. [175, 183]
345. The Appellants argue that reduced weight should be given to SUDP Policy EN 2 because it was not carried forward into the draft CS. However the draft CS was withdrawn before the completion of its Hearings and that Inspector made no pronouncement on the validity or relevance of the Greenway, the proposed removal of which had prompted significant objection. In any event, the draft CS contained a green infrastructure policy (GI1) that was designed to protect and enhance green assets including the Greenway. One of the functions of this policy was separation and the appeal proposal would clearly have fallen foul of this policy had it been adopted as a replacement for SUDP Policy EN 2. [85, 86, 229, 230, 232, 235]
346. Whilst Chat Moss and the Irwell Valley would still have been protected by a separate policy and the latter is another GW, both of these protected areas involve other districts and consequently take on a sub-regional dimension that needs to be addressed. The Greenway is wholly located within Salford and the absence of any individual protection in the CS does not imply that it is of less value as a GW than the Irwell valley. The Greenway would also have been protected from development by CS Policy DP1, which sought to protect greenfields from development by prioritising the use of brownfield land. Salford currently has an abundance of such sites with planning permissions for residential development. [85, 231, 233, 234]
347. The Appellants argue that Policy EN 2 is a policy for the supply of housing because it prevents housing being built in the Greenway and Salford has a shortage of sites for housing development in locations that are currently sufficiently attractive to the market to be viable. I do not follow this argument since the same reasoning that the Greenway, which is site specific and in the overall context of Salford only affects a small area of land, is a housing policy could equally be applied to the Irwell Valley, where the open land is probably just as important to the residents of that part of Salford and adjacent districts as the



Worsley Greenway is to the population that surrounds it. It could also in the same terms be applied to other open land in Salford such as golf courses and other specifically designated recreation areas or even to the GB. However, if this appeal is allowed on the basis of the weight given to the urgent need for housing, then it would be difficult to resist development on other non-wooded sites within the Greenway or undeveloped land elsewhere. In such circumstances the GW and the benefits that it brings would be lost forever. SCC's precedent argument clearly has validity [90, 92, 94, 207, 253].

348. If there is a need to release land in such areas for housing development in order to meet Salford's needs, in preference to the use of brownfield land, largely located within the inner city and on which there is already planning permission for over 13,000 dwellings, then the DP process, which would facilitate a comprehensive assessment, is the appropriate vehicle rather than the blinkered approach of a Section 78 appeal. [184, 224, 270, 299,]
349. Both the recent High Court cases of *Davis* and *Barwood* concluded that similar GW policies were not policies for the supply of housing. In fact *Barwood* specifically distinguished between policies that apply to all areas outside of development boundaries, which are and those such as EN 2 that relate to the undeveloped character of a particular area of land that are considered not to be. [89, 205-209]
350. Furthermore the Framework at Para 157 says "*crucially LPs should... identify land where development would be inappropriate*". The Greenway policy was established and maintained because it was felt that development here would be inappropriate because of its harm to the open character of the area. Such a policy is therefore not inconsistent with the Framework. [89,91,93, 223]
351. I note the Appellants' point about it being essential for this site to come forward if the objectively assessed housing need is to be met but that conclusion depends upon a number of assumptions about which there was not comprehensive evidence before the Inquiry and nor should there have been, it was not a DP Hearing. Whilst there may have been other land clearly available for development in North West Leicestershire and South Northamptonshire that does not undermine the applicability of the judgements to this case. It does however suggest that there could be circumstances in Salford that weigh in favour of the proposal in the overall balance that were not present in the other cases. I return to this later. [91,94, 151, 215]
352. The Section 78 appeal process is also not an appropriate vehicle in which to review the appropriateness or otherwise of the circumstances for the continuation of a GW policy. As the *Hunston* judgement determined, "*an Inspector in that situation is not in a position to carry out such an exercise in a proper fashion*" [224].
353. The Appellants' argument that because the Greenway could potentially accommodate 1,000 of the 1,600 homes on greenfield sites outside of the GB that were discussed at the Examination into the withdrawn CS (CD 10b App 6), EN 2 is a policy for the supply of housing, is similarly flawed. Other policies, such

as that protecting the GB, prevent house building on a major scale and like EN 2 their purpose is to keep land open for spatial planning reasons. The Examination was also told that it would be necessary to develop in the GB if Salford was to meet the housing targets being discussed. [74, 83, 207, 208]

354. I conclude that Policy EN 2 is not a policy for the supply of housing. Furthermore although the SUDP was adopted in 2006 it does not expire until 2016. Policy EN 2 is therefore not out of date and should attract full weight. As EN 2 is not a relevant policy for the supply of housing, it is not appropriate to consider it in the context of Framework Para 49. There is however, no disagreement that the policies in the SUDP that determined the number and distribution of dwellings are out of date. [47, 88, 90, 92, 209]
355. In the SoCG, SCC agreed with the Appellants that subject to the proposed mitigation measures set out in the submitted Ecological Assessment, the proposed development would not have an unacceptable impact on wildlife corridors or protected species. Barbara Keeley MP and third parties, particularly Robert Sides disputed this. [58, 114, 298, 310, 315]
356. Apart from a wide representation of bird species and the ecology at the Fishing Pond, the biodiversity of the two appeal sites to be developed is far from exceptional. Major enhancements could take place as a part of the implementation of the appeal proposals at Broadoak North and South and a new ecological area would be created at Aviary Field. On balance I consider that the onsite benefits (including those at Aviary Field), resulting from the proposed mitigation measures, would more than outweigh the losses resulting from the development. [114-116, 310]
357. However, the Greenway is a Wildlife Corridor that facilitates the movement of flora and fauna from the open countryside to habitats within the built up parts of the city. The proposed layout does not maintain continuous open land between Worsley Woods and Dukes Drive Country Park. Consequently there will be a reduced ability for flora and fauna to move through the area. GMEU point out that "*they (the mitigation measures) are unlikely to fully compensate for all of the losses of green space to the scheme and .... anticipate that some level of harm will be caused to the functionality of the site as a wildlife corridor if the development is approved*" [CD 04q, pgs 5/6]. I agree and note that whilst the WLL would still connect the two areas, this is in a cutting that is unlikely to be conducive to the movement of many species. The proposal would unnecessarily impair the movement of flora and fauna into Salford and is consequently not supported by SUDP Policy EN 9. [26]
358. SUDP Policy R 4 sets out objectives for key recreational areas within the City, of which the Worsley Greenway is one. It says that planning permissions will only be granted for development within such areas where they are consistent with a set of objectives. Whilst the proposal would increase and enhance footpaths in the area, their ambience would be that of housing estates rather than open land. The proposal would not therefore protect and enhance the existing and potential open land recreational use of the area. Nor would it protect and improve the amenity of the area. It is therefore contrary to SUDP Policy R 4. [25, 103, 195, 199, 213]

359. As the proposal is not in accordance with the DP, the first part of the second section of Framework Para 14 is not engaged. It is agreed that the SUDP 's housing policies are not up-to-date. Therefore the second part of the second section of Framework Para 14 is only engaged if the proposal can be judged to be sustainable development. [154, 155, 204, 210, 211]

### ***Sustainable development***

360. At Para 14 the Framework says that at its heart there is a presumption in favour of sustainable development. At Para 7 it points out that there are three dimensions to sustainable development: economic, social and environmental. The three roles are mutually dependent and should not be taken in isolation (Para 8). As portrayed, sustainable development is thus a multi-faceted, broad based concept. The considerations that can contribute to sustainable development are not always positive and it is often necessary to weigh relevant attributes against one another in order to arrive at a balanced position. The situation at the appeal sites in this respect is no exception. [149, 152,216]

### *Economic Role*

361. Economic growth contributes to the building of a strong and competitive economy, which leads to prosperity. Development creates local jobs in the construction industry as well as business for and jobs in the building supply industry. This is particularly important in times of economic austerity and is emphasised in Paras 17 and 18 of the Framework, which support sustainable economic development to deliver the homes, business and infrastructure that the country needs. Whilst such jobs and business could be generated by development anywhere and in the context of Salford there may well be locations that are more locationally sustainable than the appeal sites, that is not the issue. At the present time this City appears to be falling short of its requirements in terms of housing construction. In such circumstances, the availability of any site that could contribute to house building and economic development, in the short term, should attract some weight. [149, 153, 162, 217]

362. The appeal site is available. A well-established building company with a track record of delivering a significant number of new dwellings in a short period of time is co-joined with the owner as an Appellant. There is no evidential reason to doubt their stated intention to commence development at an early date, assuming planning permission is obtained. However, their estimation of build rates is slow, with only 150 dwellings estimated within the five year period. In the context of Salford's alleged overall housing needs and land shortages this is far from a significant contribution to meeting a requirement that the Appellants' maintain is urgent. [76,249]

363. The Framework at Para 112 requires account to be taken of the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, the use of areas of poorer quality land in preference to that of a higher quality should be sought. Some of the land to be developed is grade 2 or 3a quality agricultural land. Whilst the SUDP is now silent, the Framework at Para 112 requires decision

makers to take into account the economic and other benefits of the best and most versatile agricultural land. However as the higher quality land extends to no more than 5.4 hectares and it is detached from its home farm, I attach little weight to this loss. [59, 97]

364. There would be benefits to the local economy through increased expenditure in the form of wages and material purchases during the construction period. Overall the Appellants estimate a sum of £53m but not all of this would be spent locally. They also estimate that the equivalent of about 100 jobs would be created for the duration of the development (about 10 years) but accept that not all of these would be based or recruited locally. Nevertheless, these economic benefits of the development do weigh in favour of the proposal in the sustainability balance. The Appellants have also agreed to the imposition of a condition that would facilitate training to improve the construction skills of the local population. [149, 164]

365. After completion the Appellants estimate that about 16 permanent jobs would be created at the shop and the marina development. The latter would also generate expenditure from boat owners and tourists. They also calculate that the proposed development would have the potential to generate over £7m of additional annual gross expenditure on goods and services, with over £4m of this spent in Salford. The absence of significant levels of outlets for this expenditure, close to the appeal sites, suggests that this expenditure will be spent within the wider city rather than locally. Nevertheless, it adds weight to the economic benefits of the proposal and I conclude that the proposal would contribute positively to the economic role of sustainability. [120, 149, 165]

#### *Social Role*

366. The proposal would contribute to the supply of housing and there is no dispute that through the discharge of appropriate conditions, the development could create a high quality built environment. It seeks to provide a high proportion of aspirational housing but would also provide 20% of the dwellings as affordable housing, which is in accordance with Policy HOU 3 of SCC's Planning Guidance. This is Supplementary Planning Guidance that was adopted in 2006. The SUDP at Policy H 4 establishes a need for affordable housing where there is a demonstrable lack of affordable housing to meet local needs but is not prescriptive as to the amount. This provision would contribute to the meeting of this identified need at a time when the means to create affordable housing on a large scale are limited and undoubtedly weighs in favour of the proposal. However, the Appellants have chosen only to provide the minimum requirement and only about 30 affordable dwellings would be provided in the five year period (120 overall). This is at a time when the SSHMA identifies a net annual affordable housing need for over 1,000 dwellings. In such circumstances the site can hardly be making a significant contribution to meeting this need as originally suggested by SCC. [78, 157, 158, 160, 161, 217]

367. The Appellants' intend to gear the market housing towards aspirational families, with over 40% of the overall stock being of this character. They point out that Worsley has one of the main concentrations of existing aspirational housing in Salford. However, a concentration of such housing, in an area already

dominated by it, would not meet the Framework's objective, at Para 50, to deliver a wide choice of high quality homes that create sustainable, inclusive and mixed communities. [77, 158]

368. The Greater Manchester Strategic Housing Market Assessment and the Manchester Independent Economic Review both noted that the conurbation needs to improve its housing offer, in order to attract more skilled people from elsewhere. The Salford West Regeneration Framework 2008 identified Salford West as an area that could address the City's skewed housing supply. However, it specifically points out that the challenge is to expand the quantity of high quality homes to new areas across Salford West and not in areas where there are already high concentrations of such dwellings. [77, 159, CD28]
369. The Framework at Para 34 says that decisions should ensure that developments which generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. A development of 600 new homes would generate significant movement.
370. The provision of facilities and public transport in the Worsley/Hazlehurst part of Salford is far from good in comparison to most other parts of the city. In consequence a disproportionate number of its residents use the private car for journeys. In 2011 75% of the working population of Worsley travelled to work by car or van. In Salford as a whole the corresponding figure was only 60%. The rail services from Swinton and Walkden to Manchester are already used to capacity at peak periods so that development at Broadoak is less likely to result in modal shifts in favour of public transport than would developments in some other parts of Salford where there is more capacity within the public transport system. [149, 300, 304]
371. There is an hourly bus service along Worsley Road to central Salford and Manchester and others of the same frequency to Swinton and Leigh. In the context of Salford and GM these are not high frequencies. Much of Broadoak South is not within easy walking distance of the bus stops. These considerations lead me to find merit in the allegations of RAID and third parties that in the context of facilities and travel this is not a particularly accessible or sustainable site. [144, 274]
372. To overcome these defects, the Appellants propose to subsidise a shuttle bus service between Broadoak South and Swinton at a twenty minute frequency for a period of five years. As well as providing improved convenient access from both sites to Swinton, where there is a full range of shopping and other local facilities, this bus would connect with the LSM bus-way. This would provide improved access to MCC and Swinton by public transport for existing residents in the areas that it would serve, as well as those residing on the appeal site. [145-147]
373. There is no evidence to suggest that the shuttle-bus, which is supported by TfGM or the LSM bus-way, would not attract patronage or be financially unviable. An appropriate condition would ensure that the proposed Travel Plan is prepared and successfully implemented. This should further increase the use of public

transport and its overall viability in the context of Worsley. These benefits overcome the accessibility disadvantages discussed above. [148, 274, 275]

374. However, despite their quality, the facilities in Swinton are not sufficient to totally sustain the local population. Consequently, most residents would travel elsewhere for some elements of comparison shopping and some would visit larger supermarkets elsewhere. MCC and the Trafford Centre are the most popular destinations for comparison shopping. Although the use of internet shopping and home delivery is on the increase, the likelihood is that many families would travel by car to the former and latter destinations for some considerable time to come. In the circumstances of the appeal sites, it would not be easy to tempt residents of the new development away from this mode of travel by the initiatives that could result from the Travel Plan. To this extent I share the concerns expressed by RAID and other third parties. [147, 274]
375. The shuttle-bus would connect with rail services at Swinton as well as the LSM bus-way. MCC is the most important employment destination for residents of Worsley and contains the regions premier shopping centre. There is no reason to suggest that the travel to work patterns of residents of the appeal sites would be any different. Consequently, if the Travel Plan is suitably designed and implemented, there are good opportunities to at least encourage residents of the appeal sites, to use public transport when travelling to work and shop in MCC. Acting against this are the queues of traffic along Worsley Road in both directions during the AM peak. These already disrupt the reliability of bus services along that road and will continue to do so. [145, 271-273]
376. Apart from a newsagent (about 0.5km from the sites accesses at Worsley Road) the nearest top-up shop is nearly 1km to the east of the sites<sup>56</sup> and more extensive local facilities are only available in Monton, about a 3 km drive away. Primary education facilities locally are at capacity, the nearest being about 0.75 km from the sites' accesses and substantially further from most of Broadoak South, whilst the nearest healthcare facilities, which themselves are alleged to be full to capacity, are also at Monton. More extensive retail and other facilities are available in Swinton, a little over 3 km away. [149, MH App 1]
377. The Framework at Para 38 identifies primary schools and local shops as key facilities that should be located within walking distance of most residential properties. Neither is within easy walking distance of this site. Whilst the inclusion of a retail store within the site and the financial contribution towards a new primary school at Alder Forest, together with the footbridge over the Canal, would undoubtedly improve the position, much of the development would still not be within easy walking distance of a primary school and none would be close to a range of local shops and facilities. [105, 126, 127, 170, 280]
378. Whilst Para 34 of the Framework says that decisions should ensure that developments that generate significant movement are located where the need to travel can be minimised and the use of sustainable transport modes can be

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<sup>56</sup> Much of the southern part of Broadoak South is at a significantly greater distance

maximised, it also says that this needs to take account of other policies set out elsewhere in the Framework.

379. At Para 70 the Framework says that the planning system should guard against the unnecessary loss of valued facilities, particularly where this would reduce the community's ability to meet its day to day needs. At Para 73 it points out that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities.

380. The Appellants accept that Salford suffers from significant health and socio-economic inequalities. On the majority of health indices Salford performs significantly worse than the national and regional averages. For example the city ranks 148<sup>th</sup> out of 150 local authorities in terms of inactivity and it is estimated that less than one in every four adults in the local area take enough regular physical activity to maintain good physical health. Consequently the level of obesity remains excessively high. Research was submitted to demonstrate the important effects that green space has on health and well-being and the correlation between green space and a healthy population. [129, 305-309]

381. The local atmosphere has high levels of nitrogen dioxide and particulate matter, which exacerbates asthma and other respiratory diseases, causing higher than average levels of death from these causes. SCC and others are seeking to support and promote health and wellbeing to combat the local high levels of ill health and obesity. [128, 281, 301]

382. With the exception of the sections adjacent to the M60, the footpath network through the Worsley Greenway is a resource that enables people to take exercise in a less polluted, green environment away from the noise and polluting traffic to be found in the surrounding urban area. Whilst the appeal proposal would maintain and expand the footpath network through the sites, it would not retain all of the footpaths within landscaped corridors that would be attractive to walkers, as maintained by the Appellants. The appeal proposal would substantially reduce the sense of tranquillity and openness in the area through which they pass. Despite the proposed footpath link between Worsley Road and the WLL, the proposal before the SoS would sever the ability to walk through or adjacent to an open area along the length of the Greenway. It would reduce a significant section to a narrow corridor between houses or a confined former railway cutting. [103, 217, 264-268, CD 01c Pg35]

383. In my view and despite the high proportion of amenity green space, this change would discourage existing users of the network from taking exercise, rather than assisting the programmes of SCC and others that seek to encourage the reverse. Whilst I note that the Appellants propose an increase in the amount of amenity space in the area, with the exception of the area close to the Bridgewater Canal, I do not consider this to be a satisfactory substitute for the open vistas adjacent to the footpaths that traverse the site or the glimpses of open land to the west of the WLL at Broadoak South that are experienced by users of that trail. On balance the appeal proposal would deter the local population from taking casual physical exercise rather than the reverse. [103, 106, 172]

384. Health and fitness is also encouraged through the provision of facilities that enable the population to participate in active sports. The Appellants by reference to the Salford Greenspace Strategy pointed to an overall exemplary provision. They did however also refer to the identified deficits of most types of open space within Worsley, including a neighbourhood park and a Neighbourhood Equipped Area of Play (NEAP). Additionally they also recognised the recreational value of the features within the Greenway. Whilst overall there is an apparently good provision by comparison with other parts of Salford, this is because of the provision of wider green space, which includes natural and semi-natural greenspace. The provision of urban open space within Worsley/Boothstown, which includes play areas, parks and outdoor sports facilities, is amongst the worst in Salford. The Salford Open Space Infrastructure Delivery Plan only concluded that there was a limited case for bringing the Worsley Greenway forward as strategic natural green space because the land available for such a purpose did not meet the minimal threshold. [117, 118, CD 20 Table 2.1]
385. The proposal makes provision for a reduced but improved playing pitch at Bridgewater School and a new playing pitch at Aviary Field. Members of the public are to be allowed access to the former site when it is not required for educational or other purposes. With these exceptions there is no provision for children and others to participate in informal ball games and other casual sports. There is also no proposed provision within the residential area for a NEAP. These provide a range of facilities for older children and require a significant buffer around them because of the potential noise impacts. SUDP Policy GS5 suggests that all households should be within 1km of a NEAP. Much of the developed parts of the appeal sites would not be. [39, 117]
386. Even the restricted provision at Aviary Field is more than 1km from the majority of Broadoak South and it suffers the disadvantage of being adjacent to the M60, with its high levels of atmospheric pollution and noise levels. The routes to this site, from the residential areas, are somewhat circuitous, unlit and for much of their way within woodland. Despite the existence of other playing fields close to motorways, this is not a location that would motivate parents living in the new dwellings to encourage their children to regularly visit to participate in ball games and other sports. [261-263]
387. The Framework at Para 73 suggests that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. The absence of specific areas for casual and informal ball games within the sites that would be developed and the peripheral or inappropriate location of the new formal sports provision, together with its dual use, suggests that there will be little opportunity for children and others residing within the development to participate in informal sport. Again this will not assist SCC and others in their attempts to increase the population's participation in active recreation and would not be a sustainable outcome. [261]
388. In part recognition of my concerns about the suitability of Aviary Field as a location for active recreation, the Appellant's offered to maintain the existing provision at Broadoak North both quantitatively and improved qualitatively, whilst still providing Aviary Field as a wider benefit [D B20]. However, such a change would not overcome my concerns about the remoteness of and access to Aviary



Field from the areas that would be developed, as well as its health disadvantages. Additionally, Bridgewater School would still have the first call on the on-site provision and the wider community would be at its behest.

389. I conclude that despite the proposal's contribution to overall and affordable housing in Salford, its harm to recreational and health issues are such that on balance it would overall contribute negatively to the social role of sustainability.

#### *Environmental role*

390. On balance there would be net gains to ecology through the provision of ecological improvements at Aviary Field and within the development sites. This would compensate for the inevitable on site losses as a result of the extent of built development and the loss of the area of the fishing pond and the marshy grassland on Broadoak South. However, as GMEU point out [CD 4q], "*the continuity of the wildlife corridor would be broken and some level of harm will be caused to the functionality of the site as a wildlife corridor*". This has to weigh against the proposal, reducing the overall weight given to the net on-site ecological gains. [58, 97, 114, 168]
391. Much of Worsley, including the parts of the appeal sites close to Worsley Road are within the Salford Air Quality Management Area. Recorded Nitrogen Dioxide levels are among the highest in GM and above recommended levels. There are consequent documented health ramifications. The HA's decision to abandon its plans to widen the M60 as it passes through Worsley, because of the impact of additional traffic on air pollution, suggests that the problem has been recognised and is being treated seriously by others. It also suggests that a cautious approach should be adopted when appraising proposals that would increase the amount of air pollution. [129, 281, 290, 294, 297]
392. At Para 120 the Framework says planning decisions should take into account the unacceptable risks (including cumulative effects) from pollution on health and general amenity. At Para 124 it goes on to say that planning policies should sustain compliance with and contribute towards EU limit values, taking into account the presence of Air Quality Management Areas. Additionally, planning decisions should ensure that any new development in those areas is consistent with any local Air Quality Action Plan. [129, 281, 297, 301, 302]
393. The majority of the sites are outside of the Air Quality Management Area but all vehicular traffic generated by the development would have to pass through it. Any large new area of housing will generate significant amounts of vehicular traffic. Barbara Keeley MP estimates 1800 trips per day from the appeal sites and the Appellants' highway assessment, which suggests about 800 in the two peak hours alone, is not at variance with this. This is not insignificant and could compound an already unacceptable situation. [129, 300, MH App 13]
394. The Appellants' Air Quality Assessment concludes that there will be small increases at most receptors in recorded levels of nitrogen dioxide as a result of the increased traffic generated by the development unless there are compensatory reductions in vehicle emissions, which is not certain. They also accept that there is likely to be an overall minor adverse impact from this source.

In these circumstances it is difficult to conclude other than that this is not an ideal location in which to build a large housing development that would add to the existing unacceptable levels of air pollution. It also does not meet the Framework's core planning principle of reducing pollution. [129]

395. For over 30 years the land that is the subject of this appeal has been kept open for spatial planning reasons. The Greenway is meant to provide a degree of separation between the distinct communities that are either side of it, the fields that make up Broadoak North and South particularly separating Worsley/Alder Forest from Hazelhurst. Contrary to the Appellants' belief, the gap either side of Worsley Road does have a strategic function. The wooded avenue, with the glimpses of the fields beyond, is appreciated by the thousands of people who each day pass along that stretch of road and it and the north-western edges of Broadoak South provide a setting for the historic village of Worsley and the approach to its conservation area. The appeal proposals would effectively destroy all of this. [100, 111a, 198, 199]
396. Whilst the qualities of the proposed landscaping are high, it would nevertheless be a well landscaped housing estate and not open countryside. The open landscapes across the sites, punctuated by and for the most part terminating in trees, would be lost and replaced by a large urban development with some green fingers. The proposed development would detract from the open character and appearance of the area. [200, 201]
397. The GW would be broken into two and Worsley and Hazelhurst would coalesce, which would be an undesirable outcome. The appeal scheme would consequently have a very profound adverse impact on the purposes, identity and character of this part of the Greenway and as a result a strategic part of it would be permanently lost. The GW designation has served (for over 30 years) and continues to serve a useful planning purpose and the weight of objection to this appeal confirms that it is a much valued planning purpose. It should only be lost for compelling land use planning reasons, which I discuss below. [180-182]
398. The sites are also a significant part of the Green Infrastructure of this part of Salford. Annex 2, Glossary to the Framework defines Green Infrastructure as a network of multi-functional green space, which is capable of delivering a wide range of environmental and quality of life benefits for local communities. The Worsley Greenway certainly meets this definition. Given its central location and overall value to the GW the appeal sites are a pivotal part of the existing Green Infrastructure in this part of Salford [261, 267]
399. The sites are not designated Local Green Space and because this is an extensive tract of land I am not persuaded that in its entirety it should be, although there could be scope to designate a part of it. Consequently, the sites are not protected from development by Framework Para 77. However at Para 114 the Framework does say that planning authorities should set out a strategic approach in their LPs for the protection of networks of green infrastructure. This

is exactly what Salford has been doing with this area since 1984<sup>57</sup>. Policy EN 2 is certainly up-to-date in this context and the appeal proposal would be contrary to most of its provisions. SCC sought to continue this protection through the inclusion of Policy GI1 in its draft CS. [88d, 268]

400. The Bloor case suggests that any development that harmed a GW by damaging its function, its character and appearance and its amenity value for people would not be sustainable development in any circumstances. Notwithstanding that I consider that great weight should be given to these considerations in this case and to the policy of the DP that seeks to protect the Worsley Greenway from such harm. I have already found that SUDP Policy EN 2 is an up to date policy and noted that the SUDP is not time expired. I conclude that the proposal would decidedly contribute negatively to the environmental role of sustainability. [150, 153, 212-215]
401. In its prelude to the section on achieving sustainable development, the Framework points out that sustainable development is meeting the needs of the present without compromising the ability of future generations to meet their own needs. If this appeal is allowed, then the ability of future generations in Salford to use the Greenway for the benefit of its recreation, health and wellbeing will be seriously curtailed for all time. [283]
402. Although I have found that the proposal would make a positive contribution to the economic aspects of sustainable development through its contribution to economic development and regeneration, I have also found that despite its contribution to housing supply, on balance it would have an overall negative impact on the social aspects of sustainability. The proposal would undoubtedly have a negative impact on environmental sustainability. It is therefore my judgement that the environmental and social harm would significantly and demonstrably outweigh the economic benefits so that the appeal proposal would not deliver sustainable development within the meaning of Paras 18-49 of the Framework. Consequently the provisions of Para 14 do not apply in this case.

### ***Other considerations***

403. The Judge in the Bloor Homes case, whilst recognising the importance of features such as GWs to sustainability, nevertheless said that that did not mean that development in such areas could never be permitted. He pointed out that there could be considerations that would warrant a decision to approve contrary to policy. I will now assess the other considerations raised by the Appellants and determine what weight should be attributed to them in the overall planning balance. [151]

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<sup>57</sup> SUDP Policy EN 2 and the concept of the Worsley Greenway have their origin in the Worsley and Boothstown Local Plan, which was adopted in January 1984 [SW 6.2.2]

## Highways

404. There is already significant congestion in the morning and evening peaks at the roundabouts either side of M60 junction 13 and at the junction of the A572 with the A590. These traffic conditions could be described as severe and the addition of 380 and 420 vehicles to each peak hour respectively would clearly add to this congestion. [135, 271, 273]
405. However, the Appellants propose to carry out improvements at the M60 junction. These would provide a third circulatory lane on the roundabouts and additional widening on the approach arms, together with spiral and keep-clear markings around the roundabouts. More freely moving traffic, particularly that not requiring access to the motorway, should result from that. Indeed, the Appellants' assessment suggests that these operational improvements would provide sufficient mitigation to offset the contribution to congestion from the additional traffic generated by the development. [137, 138]
406. SCC, TfGM and the HA have all carried out independent checks of the Appellants' traffic assessment and concluded that the proposed improvements provide an appropriate solution and adequate mitigation. They all agree that there would be improved traffic management at the roundabouts. Whilst these proposals are unlikely to irradiate the severe congestion that occurs at the M60 junction during peak periods, there is no evidence to suggest that the proposal would make things worse. For the improvements to be as successful as the Appellants suggest, motorists leaving the junction by way of the M60 south would have to be courteous and refrain from blocking the roundabout in times of queues, which is by no means a certainty. [131, 138, 272]
407. At the junction of Worsley Road with the East Lancashire Road, an optimisation of signals test has been carried out. This concludes that there is further scope to optimise the traffic lights, thereby creating sufficient additional capacity to accommodate the predicted traffic from the appeal development. This solution is supported by TfGM and would be funded as a part of the works to create the LSM bus-way. The residual cumulative impacts of the proposal would consequently not be severe, which is the test in Para 32 of the Framework. [140, 141]
408. Whilst the proposed junction improvements are expected to mitigate against the increased traffic provided by the development, such predictions are not an exact science and it would not be reasonable to expect major benefits for existing road users to transpire from them, although there could be some. The addition of an extra lane to the approach arms at the junctions would clearly disadvantage pedestrians, particularly children walking to and from Worsley to the school at the other side of the motorway. As pointed out by RAID, many parents are also likely to drive their children to a new school at Alder Forest, rather than walking across the footbridge. These journeys would be via the M60 junction and would add additional traffic to the flows. Overall therefore, the improvements do not add anything other than very limited weight in favour of the appeal proposal. [131, 133, 280, 286]

### *Shuttle Bus*

409. The provision of the shuttle bus would noticeably improve the frequency of bus services between the appeal site and Swinton. This would be likely to attract more local residents to use public transport to visit that centre and despite the reservations of RAID and other third parties, as to the viability and usage of the LSM bus-way, there is no evidence to suggest that it would not be used by some local people travelling to MCC. Whilst I agree that congestion along Worsley Road in both directions at peak periods is a deterrent to the use of public transport locally, I nevertheless consider that the Shuttle bus would have wider benefits and should attract moderate weight. [145-148, 167, 274-275]

### *Education*

410. There is insufficient capacity within local primary education to accommodate the anticipated number of pupils that are likely to live within the development. In the Unilateral Undertaking the Appellants agree to provide an agreed sum of money to SCC as a contribution towards the construction of a new primary school on education land within Alder Forest, immediately on the other side of the Bridgewater Canal. The proposal would also resolve existing under provision issues in the area. That element would be funded by SCC. The school site would be connected to the appeal site by a new footbridge across the canal that would be funded by the developer. [126, 279]

411. In accordance with SUDP Policy DEV 5 Planning Conditions and Obligations, SCC has an SPD prepared in 2013 to guide the provision of contributions towards educational infrastructure from new developments. The commuted sum in the undertaking has been calculated using the formula in this guidance and subject to the agreement, SCC does not object to the Appellants' proposal to resolve the educational issue. In such circumstances there is no justification to dismiss this appeal for educational reasons. [125, 127]

412. Whilst the footbridge would improve accessibility across the Canal, its function is primarily to provide access from the appeal site to the proposed new school. At the present time a new bridge would improve accessibility from Alder Forest to the public footpaths and open land that constitute Broadoak South. However, most of that would be lost if the development went ahead and the primary benefit of the bridge, apart from the access to the school, would be an ability for residents of the appeal site and Alder Forest to walk to visit persons residing in the other area. In my view this has very limited benefit for the existing population of Alder Forest and only attracts minimal weight in favour of the appeal proposal. [170]

### *Flood Risk*

413. A large part of Broadoak South is susceptible to flooding, as are areas downstream in Alder Forest where 140 properties are said to be at risk of flooding. Whilst much of this appeal site is within flood zone 3, no alternative sites in lower flood zones were before the Inquiry. The appeal proposal would develop an ingenious scheme that would divert surplus water in times of flood to

the Bridgewater Canal. This would reduce flows in Sindsley Brook within the appeal site and downstream, thereby reducing the risk of flooding both on and off the site. New dwellings would be constructed at a minimum development level above the canal water level and the Environment Agency river flood level and would be safe from 1 in 1,000 year floods. [122, 123]

414. The proposal therefore satisfies the purposes of the sequential and exception tests and is not objected to by SCC, the Environment Agency or United Utilities on flooding grounds. The Appellants anticipate that flows along Sindsley Brook and under the Bridgewater Canal, in the direction of Alder Forest, would be halved in times of flood. Whilst the major cause of flooding in Alder Forest is Worsley Brook, the flow reductions along Sindsley Brook would undoubtedly contribute to a decrease in the risk of flooding at some properties in Alder Forest. [124, 169]

415. However, there is no assessment as to the amount or risk of flooding downstream or the extent to which the appeal proposal would alleviate it. Additionally, a reduction in the capacity of Sindsley Brook downstream of the appeal site could easily be achieved by minor engineering works to throat the capacity of the culvert under the canal. Whilst it would lead to additional flooding on the appeal site, the extent of that is already controlled by the level of the canal. The downstream flooding benefits can only therefore attract moderate weight.

#### *Marina*

416. There is no objection to the development of a marina adjacent to the Canal. SUDP Policy ST 4 identifies the Bridgewater Canal corridor as an area that is to be protected and enhanced as a tourism destination and within which tourism development is to be focused. The proposal is in accordance with the Bridgewater Canal Masterplan and would provide 130 berths, for which there is an identified need along the corridor. [119, 164]

417. The Appellants maintain that a marina is unviable without cross-subsidy from a housing development. RAID disagrees. Marinas have been constructed elsewhere beside inland waterways without cross funding from other development. British Waterways suggest that good returns can be made from investment in standard marinas (250 berths) and the Bridgewater Canal Masterplan proposes such a project. The document suggests that before the appeal proposals emerged, an Appellant, Peel Investments, who own the appeal site and the canal, were interested in developing such a Marina. [121, 276-277]

418. A 130 berth marina is unlikely to be as viable as a 250 berth but there is no explanation as to why the capacity has been reduced. There is also no financial assessment accompanying the proposal to demonstrate why an independent marina is now financially unviable. As there is no enabling argument or viability assessment accompanying the appeal I cannot conclude other than that there is no evidence to justify linking the construction of a marina with a housing development. The benefits of the marina in these circumstances attract little weight. [276]

### *Open space*

419. Whilst the proposal would result in the provision of 11.25 hectares of new accessible open space, the Greenway already abounds with amenity open space in Worsley Woods and their environs. Landscaped corridors within a housing estate would be a very poor second to this as a local recreational resource. Additionally, the appeal proposal would remove the informal use of the footpaths on Broadoak South with their open outlook. On balance I conclude that the local community would be worse and not better off as a consequence of the development in this respect. [117, 172,264, 265, 390]
420. Aviary Field is located some distance from the appeal sites that are to be developed, along largely unlit footpaths and through woodland. It is also situated adjacent to the M60 motorway with its inherent polluting impacts. Together these reduce the likelihood of parents in both the development and the wider communities being desirous of their children visiting the site to participate in formal or informal sport. Bridgewater field is to be a dual use facility with the public only having access when the field is not required by the adjacent school. In such circumstances, I am not persuaded that these provisions will be other than of minor benefit to the local community. They therefore attract minimal weight. [165, 262]

### *Housing need and deliverability*

421. SCC and the Appellants consider that there is an annual requirement for 1,600 dwellings in Salford. Having made allowances for the persistent under delivery (20%) and the backlog of completions since 2011, they have agreed a 5 year requirement of 12,604 with a supply of available and deliverable sites to meet this capable of accommodating 6,121. On the basis of these adjustments there is only a 2.43 years supply. [71,243]
422. RAID and a number of third parties have pointed out that Salford had extant planning permissions capable of accommodating more than 13,000 dwellings at the base date of the analysis (March 2013)<sup>58</sup> and that despite the recession, this number has actually risen in recent years. At 1,600 dpa this would be the equivalent of more than an eight years supply and even allowing for a 20% buffer and the inclusion of the backlog, it is well in excess of 5 years. [270, 313, 248]
423. However, despite the level of housing committed through planning permissions, SCC's 2013 SHLAA considered that there was only a potential supply of 6,775 net additional dwellings to meet the five year period up to March 2018. Following subsequent discussions with the Appellants, it agreed to reduce this to 6,121 dwellings. At the Inquiry it was explained that the discrepancy between planning permissions and the agreed potential supply resulted from a change in market conditions. [MD & MC i/q] Most of the committed dwellings are

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<sup>58</sup> Data on planning permissions at 31<sup>st</sup> March 2014 subsequently became available (D P39). The information is very similar to that previously submitted with a base date of 31st March 2013. In March 2014 there were extant planning permissions for 13,343 dwellings.

apartments (72%) and/or on brownfield sites (93%) and because of a change in housing market circumstances, many of them are unlikely to be completed within the five year period. [71, 243]

424. The requirement used (1,600d) is the same as the Salford housing provision contained in the RS. That document has now been revoked and its housing policies and proposals no longer attract weight. However, although the most recent statutorily tested provision, in any event, this was clearly not an objectively assessed need (OAN) for Salford even at the time of its production. As both the Appellants and the Council point out, the proposed level of housing provision in Salford was based on a strategy that focused on directing a high proportion of the Manchester City Region's housing needs to Manchester and Salford, thereby reducing the housing requirements in peripheral locations such as Wigan, Bolton and Trafford (boroughs adjacent to Salford). Much of the provision was expected to come forward as apartments on brownfield sites within the inner parts of the city. The supporting text to Policy L 4 [CD 33] says that outside the inner city areas, development should be complementary to the regeneration of the inner core and be focused on regenerating existing housing areas, which suffer from high levels of deprivation. It did not promote the development of green fields. [72, 244]
425. This requirement succeeded a requirement of 530 dpa net of clearance, covering the period up to 2016 that originated in RPG13 and was also contained in SUDP Policy ST 2, which was not saved. Whether this represented an OAN at the time that it was adopted is difficult to assess but in any event, like the RS requirements, it is now dated and not an up to date OAN. Like the RS the SUDP, in its development policies, focussed on regenerating the inner core of the city and it did not propose significant development on green fields in the outer suburbs. [79 244]
426. In its publication CS (2012) SCC made provision for an annual average of at least 1,300 dwellings net of clearance in the period up to 2028. The CS Inspector had concerns about this figure and pointed out that the RS (with its requirement for 1,600 dwellings) remained a part of the DP for the City. He also said in his interim findings that the evidence from the Examination Hearings supported an annual requirement of at least 1,600 dwellings and that it reflected an OAN in accordance with the Framework. The basis upon which he came to that conclusion is unclear as, despite a number of requests from me, no minutes or other Hearing documents were provided for the Inquiry. [75,244]
427. In his letter of 26 September 2012 [CD 10d], when the CS Inspector set out some preliminary conclusions, he did not explain that this assessment was derived from the need to comply with the requirement set out for Salford in the RS. At the same time he did not say that the RS did not have a bearing on his conclusions and in his letter of 17 July 2012 [CD 10a] he specifically referred to it. The RS was then still a part of the DP so he should have had regard to it. He was also considering the matter at a time when the NPPG had not been published and the nature and meaning of an OAN was not as clear as it is now.
428. Whatever the basis of the CS Inspector's conclusion that 1,600 dwellings reflected an objective assessment of need in accordance with the Framework,



Salford certainly does not have an OAN set out in a recently adopted and Framework compliant plan. The Department of Communities and Local Government (DCLG) 2011 based household projections suggest that the number of households in Salford is projected to increase on average by 1,354 p.a. over the next ten years. Whilst not an OAN, the NPPG says that plan makers should rely predominantly on national surveys to inform their assessment and that household projections produced by DCLG should provide the starting point [D B12].

429. In the light of the above, I have doubts about the legitimacy of 1,600 dpa being used as the OAN for Salford. Whilst the SoS in giving significant weight to housing land considerations at the Burgess Farm appeal in 2012 used that figure, that decision was taken when the RS was a part of the DP and 1,600 dpa was Salford's statutorily approved provision. That proposal was also considered to be sustainable development. [76, 250]
430. Furthermore, despite the RS's target and the large number of dwellings with planning permission, Salford has only exceeded 1,600 dwellings once during the last ten years and only exceeded 1,000 on 3 occasions. This must cast doubt on the market's appetite and potential to build and occupy 1,600 dpa on brownfield sites within the city. [MD 4.42]
431. The 2011 household projections suggest a housing need significantly higher than that currently being met. Consequently, even if 1,600 dwellings is considered to be above the OAN, a step change in housing delivery and its location is required if the inner city is no longer capable of meeting most of the need. Whilst these overall circumstances suggest that there is a requirement for new strategic thinking, the uncertainty surrounding Salford's OAN suggest that the weight given to Salford's failure to provide a five year supply on the terms discussed in the SoCG should not be paramount. [74, 244]
432. The CS Inspector recommended a sequential approach for new housing land looking first at the regional centre and only as a last resort at greenfield land [CD 10d]. In that respect he was not departing from past policy to use brownfield land. The use of brownfield land, in preference to greenfield land, as a matter of policy, has also recently been advocated by both the Secretary of State and the Chancellor. [233, 270, 296]
433. In response to the CS Inspector's comments and before withdrawing that plan, SCC pointed out that if the higher figure of 1,600 dpa was to be met, then it would be necessary to release further greenfield land in Salford West (beyond that already identified). Without undertaking any detailed site analysis or committing itself to any of the sites, SCC estimated that this could provide land for a maximum of 1,329 dwellings and that any further increases to the supply would require the release of GB land. The Appellants' assessment at 30 dph suggests a need to release 226 ha of greenfield land and this would only meet the requirement for 5 years. SCC was able to identify less than 50 ha outside the GB. The resolution of such matters is clearly for a DP Examination. [75, 253]
434. Unless there is a radical change in Salford's housing market then it is unlikely to be able to provide anything like 1,600 dpa on brownfield land and with a

significant proportion in apartments. Unless a GM solution redirects some of this need to other Boroughs, then significant numbers of these dwellings in the medium and long term, as well as in the short term, would have to be provided on greenfield land and in particular in the GB. A fundamental review of the strategic significance of the GB, which has been designated having regard to the essential characteristics of openness and permanence, would be necessary to achieve this. Either way it would involve a step change in housing policy as it applies to Salford. Although of a lower status than the GB the issues surrounding development within the Greenway are not dissimilar and would be best considered in tandem with the wider conundrum. Such matters should clearly be left to the DP process. [74, 94, 243, 248]

435. At the present time Salford is preparing a LP but its progress on housing is stalled because it is awaiting the outcome of work at a Greater Manchester level in relation to housing requirements. Despite the Appellants' criticisms this seems to me to be the most appropriate way forward. Salford is not an island; it is an inner part of a large conurbation containing ten boroughs. In such circumstances it is doubtful whether there actually is a Salford housing market so that a strategic conurbation wide assessment of housing need and distribution is probably essential if a truly objective assessment is to be made. In any event the duty to cooperate suggests that such an overall assessment and agreement is necessary. However even allowing for this, SCC anticipated that its LP will be submitted in 2016, with adoption expected in 2017. [73, 248]
436. Given the overall scale of the problem and the limited contribution that the appeal site could make to its resolution (150 dwellings within the 5 year period) there is a strong case for awaiting the outcome of the strategic review through the DP process. [76]
437. Nevertheless, there is a clear need for affordable housing in Salford, and a desire for aspirational accommodation, both of which imply the construction of some family housing. The Framework at Para 47 urges Council's to boost significantly the supply of housing. Without the use of GB land this is unlikely to be achieved at Salford and it may be that the only way to achieve any additional housing in the short term would be by some development on greenfield land and in particular within the Greenway. Policy EN 2 does not appear to preclude development in any circumstances, only that which would fragment or detract from the openness and continuity of the Greenway or would cause unacceptable harm to its other attributes.
438. SCC does not oppose a small amount of development within the appeal sites [MD & SW i/q] and such development if appropriately located and screened could actually improve the ambience of the remaining green corridor. If such a proposal was found to be acceptable and approved at an early date then it could still make a similar contribution to the five year supply as would the appeal scheme. However, the proposal before the SoS offends the key components of the policy so extensively that such a scheme would be fundamentally different to the appeal proposal. All parties agreed that it would not fall within the scope of a minded to grant letter. [77, 78, 153]

439. Furthermore, the complete obliteration of a section of the Greenway and its consequent fragmentation and loss of continuity, as well as all the ramifications discussed above, seems a high price to pay for making a very small contribution towards meeting an alleged housing shortfall whose accuracy is in doubt. As was pointed out in the Hunston decision "*Planning decisions are ones to be arrived at in the public interest, balancing all the relevant factors. It is the community which may suffer from a bad decision, not just the local council or its officers*"<sup>59</sup>.

### ***Planning balance and overall conclusions***

440. There is clearly a demonstrable shortfall in the five year land supply in Salford when measured against the housing requirement supported by the CS Inspector and the Framework urges every effort to boost the supply of housing. Whatever Salford's objectively assessed housing need proves to be there is likely to be a requirement for some housing development on greenfield sites and the Worsley Greenway is one of the few opportunities where this could be achieved outside of the GB. This should attract significant weight and in many contexts would be the determining factor. The appeal proposal would deliver affordable housing to a limited extent and it would improve public transport in the area through the shuttle bus and contribute to a reduction in the risk of flooding elsewhere, all of which attract moderate weight.

441. However, overall the proposal does not represent sustainable development as defined in the Framework and the intensity of the development, together with its proposed layout, would unnecessarily fragment the Greenway and totally destroy its character and continuity. Additionally there would be fundamental harm to the Greenway's openness and to its value as an amenity, recreation resource and wild life corridor. The proposal would also impact upon local air quality and health and makes inappropriate provision for sport participation and informal play. These considerations when taken together attract substantial weight.

442. On balance I consider that the negative aspects of this proposal significantly and demonstrably outweigh the benefits. The proposal is in conflict with the DP, in particular saved SUDP Policy EN 2 and the other material considerations to which I have been referred do not indicate that planning permission should be granted.

### **Recommendation**

443. I recommend that the appeal be dismissed and that outline planning permission be refused. In the event that the appeal is allowed I recommend that outline planning permission is granted subject to the conditions set out in the schedule attached to this report.

*M Middleton*

INSPECTOR

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<sup>59</sup> See Hunston<sup>21</sup> Para 31

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Christopher Katowski Queens Counsel	Instructed by Salford City Council
He called	
Pete Coe	Urban Vision
Matt Doherty	Salford City Council
Simon Wood	Urban Vision

### FOR THE APPELLANT:

Roger Lancaster of Counsel	Instructed by Nathaniel Lichfield & Partners
He called	
Michael Courcier	Barton Willmore
Neil Bagley	RPS, Health, Safety and Environment
Anne Goodall	ESL Ecological Services
Pauline Randall	Randall Thorpe
Mike Hibbert	The Traffic, Transport and Highway Consultancy
Michael V Watts	Nathaniel Lichfield & Partners

### FOR RESIDENTS AGAINST INAPPROPRIATE DEVELOPMENT

Robin Garrido (local councillor)	Instructed by Residents Against Inappropriate Development Steering Group
He called	
Karen Garrido	Local resident (local councillor)
James Broome	Local resident (retired quantity surveyor)
Noel Gaskell	Local resident
Anne Broomhead	Local resident
Jillian Collinson	Local resident (local councillor)
Andrew Chetham	Local resident (local councillor)

### FOR OTHER INTERESTED ORGANISATIONS

Worsley Village Community Association	Represented by Beryl Henson
Friends of Roe Green	Represented by Jean Barnes
Moorside Residents Association	Represented by Carole Morris
Greenway	Represented by Robert Boyd
Boothstown Residents Association	Represented by Michael Howard

OTHER INTERESTED PERSONS:		Place of residence
Barbara Keeley MP	MP (Eccles and Worsley)	Walkden
Andrew Darlington	Interested person	Eccles
Kenneth Lowndes	Interested person	Roe Green
Eric Hall	Engineer	Worsley
Peter Wheeler	Councillor (Eccles)	Swinton
Bill Newham	Local Resident	Worsley
Steve Arlington	Interested person	Swinton
Pauline Ogden	Interested person	Roe Green
Graham Compton	Councillor (Worsley)	Worsley
Robert Sides	Local Resident	Worsley
Iain Lindley	Councillor (Boothstown)	Worsley
Mark Gabby	Psychotherapist	Swinton
Gundi Kiemle	Psychologist	Worsley
Stephen Savory	Architect	Monton
Claire Cribben	Interested person	Swinton
Bethan Pickup	Pharmacist	Worsley
Terry Dean	Managing Director	EllenBrook
Chris Clerkson	Councillor (Worsley)	Salford
Bhavna Pandya	Doctor	Worsley
Andrew Moore	Local Resident	Worsley
Lesley Wrightson	Interested person	Salford
Mr and Mrs Cailey	Local Resident	Worsley

## PLANS

A	Dwg No. 400G-59 Rev E, 1/2500 Application site boundary
B	Dwg No. 400G-60 Rev E, 1/2500 Existing site features
C	Dwg No. 400G-61 Rev E, 1/2500 Technical constraints
D	Dwg No. 400G-62 Rev E, 1/2500 Tree removal
E	Dwg No. 400G-63 Rev F, 1/2500 Greenspace
F	Dwg No. 400G-64 Rev H, 1/2500 Landscape and ecology
G	Dwg No. 400G-65 Rev G, 1/2500 Development areas
H	Dwg No. 400G-66 Rev F, 1/2500 Proposed access and circulation
I	Dwg No. 400G-67 Rev G, 1/2500 Proposed building height
J	Dwg No. M11110-A-020, 1/500 Proposed access arrangement-Access 1
K	Dwg No. M11110-A-021, 1/500 Proposed access arrangement-Access 2
L	Dwg No. M11110-A-022, 1/500 Proposed access arrangement-Access 3

## DOCUMENTS

### APPELLANT'S DOCUMENTS

- B1 - Draft Conditions
- B2 - Updated Housing Statement of Common Ground
- B3 - Letters from the Council relating to the Local Plan dated 21 May 2014
- B4 - Draft Unilateral Undertaking and CIL Compliance Note
- B5 - List of Appellant's witnesses
- B6 - A3 Scale Application Plans
- B7 - TTHC Technical Note 22 April 2013
- B8 - Extract from Duty to Cooperate chapter of Planning Practice Guidance
- B9 - Plan showing Broadoak South Green Space areas
- B10 - PPG Flood Risk & Coastal Change
- B11 - Map 16 from Greenspace SPD
- B12 - PPG Housing and Economic Development Needs Assessments
- B13 - TfGM 2013 Traffic Counts at Bridgewater School
- B14 - Supporting paper for Vissim produced by TTHC
- B15 - List of existing sports/ recreational facilities and plan
- B16 - Errata to Mr Watts' proof
- B17 - Images & Plans relating to Cambourne
- B18 - Updated draft list of Conditions
- B19 - Completed Unilateral Undertaking dated 18 June 2014 and CIL Compliance Note
- B20 - Supplementary Note regarding Aviary Fields
- B21 - Draft condition regarding timescale for submission of reserved matters on the first phase of development
- B22 - Closing submissions

### COUNCIL'S DOCUMENTS

- C1 - Bundle of saved UDP policies
- C2 - UDP Proposals Map
- C3 - Council's Opening and cases referred to
- C4 - Core Strategy Inspector's Questions
- C5 - Council's Core Strategy EiP Topic Paper on Housing Policy H2
- C6 - Council's Core Strategy EiP Topic Paper on Open Space
- C7 - Population and Travel to Work data

- C8 - European Landscape Convention
- C9 - Mansion House Speech 12th June 2014
- C10 - Council information on HLF bid
- C11 – Barwood Land High Court Case
- C12 – Bloor Homes High Court Case
- C13 – William Davis High Court Case
- C14 – Hunston Properties High Court Case
- C15– Closing submissions

#### RAID'S DOCUMENTS

- R1 - Agricultural Land and Property Market
- R2 - Highway Agency email 29th May 2014
- R3 - Screen shots of DVD
- R4 - Guidance on Transport Assessment
- R5 - Extract from Design Manual for Roads and Bridges
- R6 - Email from TfGM dated 24th October 2013
- R7 - Councillor Cheetham's corrected Appendix 1
- R8 - Email from TfGM dated 17th June 2014
- R9 - Telegraph article dated 13th June 2014
- R10 – Plan showing traffic survey points
- R11 – Letter from TfGM dated 16 May 2013
- R12 – Information on flooding
- R13 - Closing submissions
- R14 – Email from Matt Doherty to Jonathan Penwick re March 2014 residential planning permissions

#### DOCUMENTS SUBMITTED BY MEMBERS OF THE PUBLIC

- P1 - Note submitted by Eric Hall
- P2 - Note submitted by Michael Howard
- P3 - Note submitted by Beryl Henson
- P4 - Note submitted by Jean Barnes and map
- P5 - Note submitted by K Lowndes
- P6 - Note submitted by Andrew Darlington
- P7 - Note submitted by Peter Wheeler
- P8 - Eric Hall's second note

- P9 - Note submitted by Carole Morris
- P10 - Note submitted by Robert Boyd
- P11 - Note submitted by Bill Newham
- P12 - Note submitted by Leslie Wrightson
- P13 - Note submitted by Graham Compton
- P14 - Note submitted by Pauline Ogden
- P15 - Note submitted by Robert Sides
- P16 - Note submitted by Steven Savory
- P17 - Note submitted by Clare Cribben
- P18 - Note submitted by Bethan Pickup
- P19 - Note submitted by Terry Dean
- P20 - Note submitted by Chris Clarkson
- P21 - Note submitted by Mr Cleare
- P22 - Note submitted by Shirley Bertenshaw
- P23 –Update to Michael Howard’s submission
- P24 - Letter from Martin Bridgman at DCLG to Mr & Mrs France dated 11 June 2014
- P25 - Note submitted by John Mosley
- P26 - Note submitted by Liezel Griffen
- P27 - Note submitted by Mr & Mrs Cailey
- P28 - Note submitted by Andrew Moore
- P29 - Note on Air Quality submitted by Michael Howard
- P30 - Information on unimplemented permission submitted by Mrs Collinson
- P31 - LGiU Report March 2013 submitted by Andrew Moore
- P32 - Extract from Worsley and Boothstown Community Committee Area Summary submitted by Andrew Moore
- P33 - Note submitted by Dr Bhauna K Pandya
- P34 – Note submitted by Prof. MB Gabbay
- P35 – Note submitted by Dr. Gundi Kiemle with four appendices on health and green space
- P36 – Barbara Keeley’s speaking notes and supporting information on travel to work and green environments
- P37 – Email from Adam Pritchard dated 26 June 2014 with Winton Wanderers Football development plan
- P38 – Extract from Urban Vision document relating to Forest Way handed in my Andrew Moore



## Schedule of Agreed Conditions

### *Define the Permission*

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Application for the approval of the reserved matters for the first phase of the development (of not less than 200 dwellings) shall be made to the local planning authority not later than two years from the date of this permission.
- 4) Application for the approval of all of the reserved matters shall be made to the local planning authority not later than seven years from the date of this permission.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - a) Application Boundary Drg.400G-59E
  - b) Proposed Access Arrangement – Access 1 Drg.M11110-A-020
  - c) Proposed Access Arrangement – Access 2 Drg.M11110-A-021
  - d) Proposed Access Arrangement – Access 3 Drg.M11110-A-022
- 6) The development hereby approved shall be carried out in accordance with the principles and design philosophy set out in the following approved plans:
  - a) Principles and Parameters – Greenspace Drg.400G-63F
  - b) Principles and Parameters - Landscape and Ecology Drg.400G-64H
  - c) Principles and Parameters - Development Areas Drg.400G-65G
  - d) Principles and Parameters - Proposed Access and Circulation Drg.400G-66F
  - e) Principles and Parameters - Proposed Building Heights Drg.400G-7G
  - f) Principles and Parameters – Tree Removal Drg.400G-2E

### *Phasing of the Development*

- 7) None of the development hereby approved shall commence until a phasing scheme for the development which sets out the sequence in which the various elements of the development will be constructed and brought into use has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved phasing scheme.
- 8) No development shall commence before details of the proposed public footbridge over the Bridgewater Canal to link to the south side of the canal have been submitted to and approved by the Local Planning Authority. The

approved details of the public footbridge shall be implemented prior to the occupation of the 1st open market dwelling on the site.

- 9) No development of the Marina Basin (within Indicative Phase 2 of the development) shall commence until the footbridge over the entrance of the marina has been constructed in accordance with the details, to be approved in writing by the Local Planning Authority, and is available for public use. The scheme shall include an implementation programme and shall be implemented in accordance with the approved details.

*Form of the Development*

- 10) The maximum number of dwelling units to be developed on the application sites shall not exceed 600 dwellings, with no more than 90 dwellings on the Broadoak North site and no more than 540 dwellings on the Broadoak South site.
- 11) At least 36% of the dwellings forming the total development shall have 4 or more bedrooms and at least 65% of all dwellings shall have a floorspace of at least 95 square metres.
- 12) The dwellings hereby approved shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 13) Any application for the approval of reserved matters for any phase within the development hereby approved shall be accompanied by a 'Crime Prevention Plan' [CPP] for that phase which shall examine all aspects of site security including, site car parking, pedestrian footways, entrances, internal layout and external security measures for that plot and which shall be capable of meeting 'Secured by Design' requirements. Development of that phase shall be carried out in accordance with the approved CPP and any approved site security measures shall be retained thereafter.
- 14) No development, or phase of development hereby approved shall be started until full details of the location, design and construction of bin stores and recycling facilities have been submitted to and approved in writing by the Local Planning Authority. Such approved bin stores shall thereafter be constructed and made available for use before the development is brought into use.

*Open Space & Playing Fields*

- 15) No development shall take place unless and until a scheme showing full details of the design, layout, specification and maintenance of the playing fields and other open space areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of how the playing fields and other open space areas are to be maintained in perpetuity. In relation to the playing field to be provided on Broadoak North the scheme shall include:

- a) A detailed assessment of the ground conditions (including drainage and topography) to identify constraints which could affect playing field quality;
- b) A written specification of soils structure, cultivation and other operations associated with grass and sports turf establishment based on the results of the assessment carried out pursuant to (a) above;
- c) A scheme for the management of the sports provision to be made within or in association with the development, including provision to be made for use by the school and/or other organisations/individuals within the local community;
- d) A scheme to ensure continuity of sporting use by Bridgewater School during the period when improvements are made to the playing field adjacent to the school (the scheme should cover the period until the improved area of playing field is made available for use).

No development shall commence on the existing playing field located adjacent to Bridgewater School until improvements have been made to the retained area of playing field adjacent to the school, and the replacement playing field has been constructed, laid out and made available for use in accordance with the approved scheme.

- 16) Notwithstanding the details shown on the approved parameter plans (as set out in condition 6) any reserved matters application for the Broadoak North part of the development shall make provision for a 1.1 hectare playing field, the management of which will be secured through condition 15).
- 17) The first reserved matters application that relates to the area defined in the Design & Access Statement as the Sindsley Park Character Area (Phase 2 of the development) shall include details of the proposed Locally Equipped Area for Play (LEAP). The LEAP shall be a minimum of 400sq.m. in area and be located at least 30m from the curtilage of any residential property (existing or proposed). Details of the position of 5 pieces of play equipment, material and colour finish of fencing, bins and benches, position of gates and colour and material of surface treatment shall be included in the reserved matters details. The approved details shall be implemented in full.

#### *Landscaping and Tree Measures*

- 18) No tree felling or vegetation clearance (illustrated on outline drawing 400G-62E - Tree Removal) shall take place within the optimum period for bird nesting (March to July inclusive) unless a report has been submitted to and approved in writing by the local planning authority demonstrating that nesting birds have been shown to be absent.
- 19) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of [1 year] from the date of the occupation of the last dwelling:

- a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping App proved shall be carried out in accordance with British Standard 3998 (Tree Work);
  - b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority;
  - c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the Local Planning Authority.
- 20) Prior to the commencement of development, or a phase of development, hereby approved a Landscape and Habitat Creation and Management Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall accord with the recommendations set out in the Ecology and Nature Conservation Chapter of the Environmental Statement (March 2013) and include details, such as long term design objectives, management responsibilities and maintenance schedules for all landscape areas and shall include details of the proposed habitat creation on Aviary Field. The scheme shall be implemented in accordance with the phasing details as provided by condition 7.
- 21) Prior to the commencement of development, or phase of development, hereby approved a detailed method statement for the removal or long-term management/eradication of Japanese knotweed on the site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds/roots/stems of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall proceed in accordance with the approved method statement.

*Highway Measures*

- 22) No development pursuant to this planning approval shall commence unless and until the full design and construction details for the improvements to Junction 13 of the M60 shown in outline on drawing M11110-A-026 prepared by the transportation consultants, TTHC and dated 16th September 2013, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency. The details to be submitted shall include:

- a) How the scheme interfaces with the existing highway alignment, details of the carriageway markings and lane destinations;
  - b) Full signing and lighting details;
  - c) Confirmation of full compliance with current Departmental Standards (DMRB) and Policies (or approved relaxations/departures from standards);
  - d) An independent Stage Two Road Safety Audit (to take account of any Stage One Road Safety Audit recommendations) carried out in accordance with current Departmental Standards (DMRB) and Advice Notes.
- 23) No dwelling shall be occupied unless and until the highway improvements, in accordance with Condition 5, have been implemented in accordance with the approved plans.
- 24) Prior to the commencement of development, or phase of development, hereby approved a detailed Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be developed in accordance with the Framework Travel Plan.

*Drainage Measures*

- 25) Prior to the occupation of any dwelling on a relevant phase of the development, details of the surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority. The details shall be implemented in accordance with the approved details. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the NPPF (and any Technical Guidance), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - b) include a timetable for its implementation and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 26) The development hereby permitted shall not be commenced until such time as a surface water regulation scheme has been submitted to and approved in writing by, the Local Planning Authority. The scheme shall show:
- a) Detailed measures to address both surface water and fluvial flood risk;
  - b) Discharge rates that are no more than 245 litres/sec in total and that sufficient retention volumes for excess water are provided on site for the 1 in 100yr storm (including 30% increase for climate change);

- c) The control of flows entering Sindsley Brook canal culvert at no more than 515 litres/sec;
- d) Details of the flow bifurcation on Sindsley Brook and proposed new channel to the canal marina.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

- 27) Any reserved matters application should ensure that there is no net loss of river habitat and all watercourses should be naturally meandering in design where feasible.

*Construction Management and Site Investigation Measures*

- 28) The development, or phase of development, hereby approved and all operations undertaken on site shall be carried out strictly in accordance with the practices outlined in the Site Waste Management Plan prepared by RPS (dated February 2013) (ref OXF7901) throughout the construction period.
- 29) No site works shall commence on any phase of the development until a Construction Environmental Management Plan [CEMP] to serve the relevant phase has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

The CEMP shall include, but not be limited to, the following information:

- a) details of the routing of construction vehicles to the site and access and egress arrangements within the site including details of signage, monitoring and enforcement;
- b) site preparation and construction stages of development;
- c) details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
- d) details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage of mud and dirt onto the highway;
- e) measures to monitor vibration from construction activities on the site;
- f) a suitable and efficient means of suppressing dust (which accord with the recommendations set out in the Air Quality Chapter of the Environmental Statement), including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
- g) noise and vibration mitigation measures for all plant and processors (which accord with the recommendations set out in the Noise and Vibration Chapter of the Environmental Statement);

- h) details of contractors compound and car parking arrangements;
- i) screening and hoarding details;
- j) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- k) delivery and collection times for construction purposes;
- l) loading and unloading of plant and materials;
- m) details of interim car parking management arrangements for the duration of the construction;
- n) temporary access arrangements for pedestrians, vehicles and cyclists;
- o) details of measures to be taken to protect the Sindsley Brook and the Bridgewater Canal during the course of the scheme;
- p) details of a community liaison contact for the duration of all works associated with the development, including complaints procedures and complaint response procedures;
- q) the times of construction activities on site;
- r) prior notice and agreement procedures for works outside agreed limits and hours;  
and
- s) details of membership of the Considerate Contractors Scheme.

The development shall be implemented in accordance with the approved CEMP.

- 30) Prior to the commencement of each phase of development hereby approved:
1. A Site Investigation report shall be submitted to and approved in writing by the Local Planning Authority. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health and the wider environment ;  
and
  2. The details of any proposed Remedial Works shall be submitted to, and approved in writing by the Local Planning Authority. Such Remedial Works shall be incorporated into the development during the course of construction and completed prior to occupation of the development;  
and
  3. A Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall validate that all remedial works undertaken on that phase were completed in accordance with those agreed by the Local Planning Authority.

The development shall be implemented in accordance with the approved details.

*Noise Measures*

- 31) Use of air extraction equipment, for the hereby approved retail facilities shall not commence until detailed plans and specifications of the equipment, including measures to alleviate noise, vibration, fumes and odours (and incorporating active carbon filters, silencers and anti-vibration mountings where necessary), have been submitted to and approved in writing by the Local Planning Authority. The ventilation system shall be installed in accordance with the approved plans and specifications before the use of the equipment commences and shall be permanently retained thereafter in accordance with the approved specifications.
- 32) Prior to commencement of development, or relevant phase of development, hereby approved a scheme of proposed mitigation for glazing and ventilation for those dwellings to be located adjacent to Worsley Road shall be submitted and approved in writing by the Local Planning Authority. The scheme shall provide details of noise attenuation measures required to ensure that the following standards are attained with respect to residential accommodation on the site as stipulated in BS8233:2014 "Sound insulation and noise reduction for buildings – Code of Practice":
- a) internal noise levels of less than 30dB LAeq,(8hour) within bedrooms between 23.00 hours and 07.00 hours;
  - b) internal noise levels of less than 35 dB LAeq,(16hour) within living areas between 07.00 and 23.00 hours;
  - c) typical individual noise events shall not be in excess of 40 dB L<sub>Amax</sub> in bedrooms between 23.00 and 07.00 hours;
  - d) external noise levels of less than 50 dB LAeq,(16hour) in gardens, balconies and private communal gardens between 07.00 and 23.00 hours.

Written details of the ventilation measures which remove the need for future residents to open windows for summer cooling and rapid ventilation shall be submitted for approval. The ventilation measures identified shall ensure the above standards are not compromised.

The mitigation measures shall be approved in writing by the Local Planning Authority and installed prior to each phase of the development. Prior to occupation of each phase of the development a Site Completion Report shall be submitted to the Local Planning Authority for approval. The Site Completion Report shall validate that all works undertaken on site were completed in accordance with those works agreed by the Local Planning Authority. All mitigation measures shall thereafter be retained.

- 33) The rating level (LAeq,T) from all fixed plant and machinery associated with the development, when operating simultaneously, shall not exceed the background noise level (LA90,T) by more than -5 dB at any time when measured at the nearest noise sensitive premises. Noise measurements and assessments shall be carried out according to BS 4142:1997 "Rating industrial



noise affecting mixed residential and industrial areas". 'T' refers to any 1 hour period between 07.00hrs and 23.00hrs and any 5 minute period between 23.00hrs and 07.00hrs.

*Archaeological Measures*

- 34) No development, or phase of development, hereby approved shall take place until the applicant or their agents or their successors in title has secured the implementation of a programme of works to be undertaken in accordance with a Written Scheme of Investigation [WSI] which has been submitted to and approved in writing by the Local Planning Authority. The WSI shall accord with the recommendations set out in the Historic Environment Chapter of the Environmental Statement (March 2013) and cover the following:
- a) A phased programme and methodology of site investigation and recording to include:
    - evaluation through trial trenching and, depending on the results,
    - targeted open area excavation;
  - b) A programme for post investigation assessment to include:
    - analysis of the site investigation records and finds,
    - production of a final report on the programme of works discussing the significance of the heritage interest represented;
  - c) Provision for publication and dissemination of the analysis and report on the site investigation;
  - d) Provision for archive deposition of the report, finds and records of the site investigation;
  - e) Nomination of a competent person or persons/organisation to undertake the works set out within the approved WSI.

*Training Measures*

- 35) No development shall begin until a scheme detailing how the development will contribute to the improvement of construction skills amongst the local labour force is submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to commencement of development.



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

##### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.